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JAN 29 2007

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION
INDIANA UTILITY
REGULATORY COMMISSION

IN THE MATTER OF THE INDIANA UTILITY)
REGULATORY COMMISSION'S)
INVESTIGATION OF MATTERS RELATED)
TO THE CONTINUED BUSINESS PRACTICES)
OF RIVER'S EDGE UTILITY, INC., IN THE)
STATE OF INDIANA PURSUANT TO)
INDIANA CODE 8-1-2-1(A), 8-1-2-58, 8-1-2-69, 8-)
1-2-89, et seq.)

CAUSE NO. 43115

**PREFILED TESTIMONY
OF**

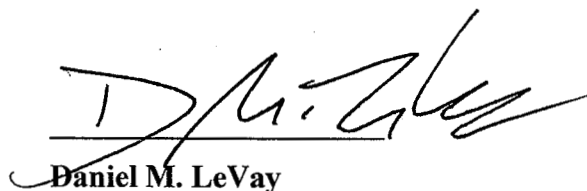
SCOTT A. BELL - PUBLIC'S EXHIBIT #1

ON BEHALF OF

THE INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

January 29, 2007

Respectfully submitted,



Daniel M. LeVay
Assistant Consumer Counselor

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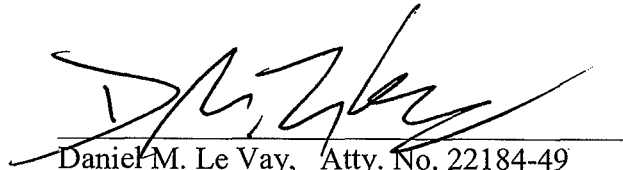
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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing OUCC Testimony has been served upon the following parties of record in the captioned proceeding by electronic mail on January 29, 2007.

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TESTIMONY OF SCOTT A. BELL
CAUSE NO. 43115
IURC INVESTIGATION OF MATTERS RELATED TO THE CONTINUED
BUSINESS PRACTICES OF RIVER'S EDGE UTILITY, INC.

Introduction

1 **Q: Please state your name and business address.**

2 A: My name is Scott A. Bell and my business address is Indiana Government Center North,
3 100 North Senate Avenue, Room N501, Indianapolis, Indiana 46204.

4 **Q: By whom and in what capacity are you employed?**

5 A: I am employed by the Office of Utility Consumer Counselor ("OUCC") as the Director of
6 the Water/Wastewater Division.

7 **Q: What is your educational background and experience?**

8 A: I graduated from Purdue University in 1987 with a Bachelor of Science degree in
9 Industrial Management, with a minor in Industrial Engineering. I began working for the
10 Indiana Utility Regulatory Commission ("Commission") in 1988 as a Staff Engineer.
11 While employed at the Commission, I attended the Western Utility Rate Seminar
12 sponsored by the National Association of Regulatory Utility Commissioners
13 ("NARUC"). In 1990, I was transferred to the Indiana Office of Utility Consumer
14 Counselor ("OUCC") at the time of the reorganization of the Commission and the
15 OUCC. In 1999, I was promoted to the position of Assistant Director of the newly
16 formed Rates/Sewer/Water Division. In 2005, I was promoted to the position of Director
17 of the Division, which was subsequently renamed the Water/Wastewater Division. In
18 September 2006, I was appointed as a member of the new Water Shortage Task Force,

1 created by SEA 369 in the 2006 General Assembly and will serve a two year term. I
2 have attended numerous utility related seminars and workshops during my employment.
3 I have also completed additional coursework regarding water and wastewater treatment at
4 Indiana University Purdue University Indianapolis.

5 **Q: Have you previously testified before this commission?**

6 A: Yes. I have testified in many causes relating to telephone, gas, electric, water, and sewer
7 utilities. Over the past six years, I have testified exclusively on water and wastewater
8 utility issues. Some of those issues include the reasonableness of cost of service studies,
9 rate design, fair value, Replacement Cost New Less Depreciation ("RCNLD") studies,
10 engineering related operation and maintenance expenses, and capital improvement
11 projects.

12 **Q: What investigations have you performed in this cause?**

13 A: I reviewed the Commission's Order in this cause dated September 13, 2006, which
14 initiated an investigation into matters related to River's Edge Utility, Inc.'s continued
15 lawful authority to operate, under the Certificate of Territorial Authority ("CTA") issued
16 under Cause No. 42234 on February 5, 2003. I reviewed documents filed with the
17 Commission in Cause No. 42234. I reviewed numerous documents received by the
18 OUCC from some customers of River's Edge Utility, Inc. On January 10, 2006 I met and
19 spoke with customers of the River's Edge Utility and took pictures within the River's
20 Edge community. I also visited the Indiana State Department of Health and obtained and
21 reviewed copies of numerous documents from their files that relate to the utility's system.
22 I also participated in numerous meetings and discussions with OUCC Staff regarding this
23 case.

1 **Q: Please provide a brief summary of your testimony.**

2 A: First, I provide a brief description of River's Edge Utility, Inc.'s ownership and system.
3 Second, I discuss the status of River's Edge Utility, Inc.'s Certificate of Territorial
4 Authority in Cause No. 42234. Third, I describe complaints made against the utility that
5 relate to its ability to provide service within its territory.

6 **Q: How is the remainder of your testimony organized?**

7 A: My testimony is provided in the following sections:

8 I. Description of River's Edge Utility , Inc.

9 II. Status of Utility's Certificate of Territorial Authority ("CTA")

10 III. Customer Complaints

11 **Description of River's Edge Utility , Inc.**

12 **Q: Please provide a description of River's Edge Utility, Inc.**

13 A: River's Edge Utility, Inc. (hereafter referred to throughout my testimony as context
14 dictates as "River's Edge", "Utility" or "Sewage Disposal Company") is a for-profit
15 corporation which owns and operates both a water and wastewater utility serving
16 customers within the River's Edge subdivision in Clark County, Indiana. According to
17 the Commission's Order in Cause No. 42234, the Utility provides service to a "diverse
18 customer base," which includes residential homes, commercial businesses, and
19 campground lots. The order also states that the Utility maintains two water wells as a
20 source of supply, two pressure tanks for water storage and distribution mains with valves.
21 The wastewater utility consists of collection mains, two lift stations and a mound-cluster
22 type treatment system with two dosing stations. The utilities are owned and operated by

1 David and Carolyn Stone, who also are the developers of the River's Edge Development,
2 Clark County, Indiana.

3 **Certificate of Territorial Authority**

4 **Q: Please describe your understanding of the Commission's Order in this cause, dated**
5 **September 13, 2006, regarding its investigation of matters related to the continued**
6 **business practices of River's Edge Utility Company, Inc.**

7 **A:** After reviewing the Commission's September 13, 2006 order, it is my understanding that
8 the Commission was acting on recently received documentation of a February 28, 1995
9 correspondence from the Indiana State Department of Health ("ISDH") to River's Edge
10 revoking ISDH approval of River's Edge's plans and specifications for construction of its
11 wastewater utility facilities. (Attachment SAB-1) The Commission also received
12 documentation of a September 12, 2000 correspondence from ISDH indicating the need
13 for River's Edge to obtain additional approvals and make certain improvements.
14 (Attachment SAB-2) It appears that River's Edge did not disclose this information to the
15 Commission in Cause No. 42234, when it obtained approval of a CTA on February 5,
16 2003. Therefore, the Commission is investigating whether River's Edge should continue
17 to have the lawful authority to operate under the CTA issued by the Commission in
18 Cause No. 42234.

19 **Q: Must a sewage disposal utility comply with Indiana Code requirements when**
20 **applying to the Commission for approval of a Certificate of Territorial Authority?**

21 **A:** Yes. I.C. 8-1-2-89 sets forth the requirements for granting a Certificate of Territorial
22 Authority to entities such as River's Edge. An applicant for a CTA must prove it has the
23 lawful power and authority to operate the proposed service; the financial ability to install,

1 commence, and maintain the proposed service; and that public convenience and necessity
2 require the rendering of the proposed service in the proposed area by that sewage disposal
3 company. (I.C. 8-1-2-89 (e)) If a sewage disposal company can prove it meets these
4 requirements, it may be given exclusive rights to provide sewer service in the territory.
5 A utility must also comply with the Commission's rules (170 IAC 8-8.5-3-1) regarding
6 the granting of Certificates of Territorial Authority.

7 **Q: Is a sewage disposal company expected to provide service to residential customers in**
8 **its territory?**

9 A: Yes. Pursuant to IC 8-1-2-89 (h), a sewage disposal company is required to furnish
10 reasonable adequate sewage disposal services and facilities.

11 **Q: In Cause No. 42234, did River's Edge indicate that it had the lawful power and**
12 **authority to apply for a CTA?**

13 A: Yes. In its original request to the Commission, dated May 15, 2002, Petitioner stated that
14 "River's Edge has the lawful authority to own and operate water and sewer facilities."
15 Also, in the Direct Testimony of Carolyn Stone, pages CS-2 and CS-3, she indicates that
16 River's Edge has the legal authority to obtain the relief requested in that cause.

17 **Q: In Cause No. 42234, did River's Edge indicate that it had "approval from the**
18 **necessary regulatory agency for the operation of the sewer system"?**

19 A: Yes. On lines 1-4 of page CS-7 of her testimony, Mr. Stone stated the following:

20 Attached hereto as Exhibit 12 is the necessary approval from the Indiana
21 State Department of Health. To my knowledge, this is the only technical
22 approval that is necessary for the operation of the sewer system.

23 The Exhibit 12 identified in Ms. Stone's response above is the August 7, 1989 letter from
24 the ISDH (Attachment SAB-3) approving the "plans and specifications for the sanitary
25 features of the proposed 27 two-bedroom residences and 76 RV campsites." This

1 approval was designated as Approval No. GS-4967.

2 **Q: Did River's Edge construct six clustered absorption fields per its plans and**
3 **specifications as approved by ISDH?**

4 A: No.

5 **Q: In Cause No. 42234, did River's Edge disclose the February 28, 1995**
6 **correspondence from ISDH that revoked Approval No. GS-4967 granted on August**
7 **7, 1989?**

8 A: No. River's Edge did not provide this information to the Commission in Cause No.
9 42234.

10 **Q: Has Ms. Stone explained why she did not disclose this information to the**
11 **Commission?**

12 A: Yes. On pages 10 and 11 of her testimony in this cause, she states the following:

13 In spite of the ISDH letter, we believed, and still believe, that we had only
14 lost the authority to construct additional facilities, but still had authority to
15 operate the Facilities that had been lawfully constructed under the
16 Construction Approval prior to its revocation by the ISDH. Therefore, I
17 testified in Cause No. 42234 that River's Edge had obtained all necessary
18 approvals to operate the Facilities as they existed, which was true.

19 **Q: Do you consider Ms. Stone's explanation to justify not disclosing this information?**

20 A: No. First, her statement that "we had only lost the authority to construct *additional*
21 *facilities*," does not accurately reflect the effect of the revocation. (emphasis added.) On
22 February 28, 1995, ISDH revoked the approval of the "plans and specifications" for *all*
23 the River's Edge sanitary sewer facilities, because "several violations of [the] approval
24 letter were observed." (Attachment SAB-1) These violations are described not only in
25 the February 28, 1995 ISDH letter, but also in a subsequent ISDH letter dated September
26 12, 2000 to Mr. Stone. (Attachment SAB-2) The 2000 ISDH letter states "plans and
27 specifications were changed from the originally approved plans without approval from

1 our office.” River’s Edge lost its authority to construct its facilities.

2 Second, Ms. Stone was incorrect in her belief that River’s Edge “still had authority to
3 operate the Facilities that had been lawfully constructed under the Construction Approval
4 prior to its revocation by the ISDH.” The ISDH letters indicate that clearly the ISDH did
5 not agree that the facilities were constructed “lawfully” because they were not
6 constructed per the plans and specification it had approved.

7 Third, I consider incorrect and unfounded her statement that it “was true” that “River’s
8 Edge had obtained all necessary approvals to operate the Facilities as they existed” While
9 ISDH does not issue *operational* permits, only approving construction plans and
10 specifications, Ms. Stone’s reliance on the 1989 letter to support her 2002 application for
11 CTA suggests that she was using the phrase “all necessary approvals to operate the
12 Facilities” in a more inclusive sense to include necessary construction permits. However,
13 River’s Edge or Ms. Stone clearly chose not disclose to the Commission in Cause No.
14 42234, the 2000 ISDH letter and the 1995 permit revocation letter.

15 **Q: Was there any other action by the ISDH that would have put the utility on notice**
16 **that its permit had been revoked?**

17 **A:** Yes. I have included the October 15, 1996 Final Order in Cause No. SE-30-95, Division
18 of Sanitary Engineering, Indiana State Department of Health vs. Plans and Specifications
19 for River’s Edge Development Subdivision and Campgrounds and Cluster System for the
20 Septic System Charlestown, Clark County for the Commission review. (Attachment
21 SAB-4) The Court ordered that ISDH Approval GS-4967 be revoked and that the

1 River's Edge appeal be dismissed.

2 **Q: Has the ISDH sent additional correspondence to River's Edge and/or the Stone's**
3 **about the revocation of Approval No. GS-4967 since the 2003 final order was issued**
4 **in Cause No. 42234?**

5 A: Yes. As mentioned in the Commission's Order in this cause, ISDH sent another letter to
6 Carolyn Stone on August 1, 2006 regarding the River's Edge Cluster Systems
7 (Attachment SAB-5). The letter restates that "because construction of the septic system
8 was not in compliance with the plans, the Construction Permit No. GS-4967 was revoked
9 on February 28, 1995." The letter goes on to state the following:

10 In a effort to address the revocation of the 1989 permit we conducted a
11 detailed review of as-built plans and provided our review to you on
12 September 21, 2000. Our review of all the septic systems identified many
13 areas of non-compliance. Copy of our letter is attached. I am deeply
14 concerned that the revised plans we requested in our review have never
15 been submitted to address those areas of non-compliance and that you
16 have also failed to contact us to discuss a resolution of these problems.

17 Now, we are again addressing complaints that you have added additional
18 connections to the existing systems without our approval. You must take
19 action immediately to start to address these violations of 410IAC 6-10. As
20 a start we are requesting that no-later-than forty-five days from the date of
21 receipt of this letter that we receive up-to-date as-built plans that include
22 all changes to the facilities since the onsite sewage systems were
23 originally approved in 1989. I encourage you to take this request
24 seriously.

25 This letter was signed by Mr. Robert J. Hilton, P.E., DEE, Supervisor Plan Review
26 Sanitary Engineering, ISDH.

27 **Q: Has River's Edge complied with the August 1, 2006 ISDH letter?**

28 A: No. On January 21, 2007, I spoke with Mr. Hilton at ISDH and asked him whether
29 River's Edge had complied with demands stated in the letter. He responded that River's
30 Edge had not provided the ISDH any up-to-date as-built plans or taken any other steps to

1 address the violations referred to in the letter.

2 **Q: Did Ms. Stone explain, in her testimony in this cause, why she has not complied with**
3 **the August 1, 2006 ISDH letter (Attachment SAB-5)?**

4
5 A: No. Ms. Stone does not provide any testimony explaining why River's Edge has still not
6 complied with the ISDH conditions and requirements.

7 **Q: Do you have any recommendations with respect to the ISDH permit?**

8 A: Yes. It has been over ten years since Approval No. GS-4967 was revoked. The Stones
9 and/or River's Edge continue to ignore the Indiana State Department of Health's
10 requirements. It is my recommendation that the Commission order Petitioner to meet all
11 ISDH conditions and otherwise make the required improvements listed in the 2000 ISDH
12 letter in a timely manner.

13 **Customer Complaints**

14 **Q: Has the OUCC received customer complaints from River's Edge customers?**

15
16 A: Yes. The OUCC has received copies of correspondence from numerous Utility
17 customers concerning the construction of the utility property, operations, disconnection
18 of service and denial of service. I have included a July 28, 2006 letter from Jeffery King
19 to the IURC Consumer Affairs Division in which Mr. King writes that River's Edge
20 advised him that it would no longer provide him utility service if he were to build a
21 permanent residence. (Attachment SAB-6) I have included a July 28, 2006 letter from
22 Ronald Jones to the IURC Consumer Affairs Division asserting the utility was "price
23 gouging." (Attachment SAB-7) I have included three (3) letters from William G. Fields,
24 President of the River's Edge Homeowner's Association. The first letter from Mr.

1 Fields, dated June 26, 2006, to the ISDH questioned whether "the Stones have actually
2 built the utility as to their original plans that they submitted to the state." (Attachment
3 SAB-8) The second letter from Mr. Fields, dated October 9, 2006, sent to the IURC
4 Consumer Affairs Division asked the Commission to "please follow up on the original
5 complaint from Jeffrey King of July 29, 2006 against River's Edge Utility, Inc."
6 (Attachment SAB-9) In the October 9 letter, Mr. Fields also states that the following:

7 David and Carolyn Stone has tried everything to stop these property
8 owners from building their retirement homes. Now she is informing
9 anyone who wishes to build up that they can not hook to the sewer system,
10 even though she has allowed two other homeowners to build up and has
11 continued to provide them with sewer rights.
12

13 The third letter from Mr. Fields, dated August 22, 2006, to Attorney General, Steve
14 Carter, discusses numerous issues related to River's Edge. (Attachment SAB-10) Mr.
15 Fields also provided the OUCC with a document titled "Summary Timeline of Events
16 Regarding River's Edge Development's Sewage System." (Attachment SAB-11)
17 Finally, I have included a copy of an "Official Complaint against River's Edge Utility,
18 Inc. Refusal to Supply Water and Sewer Service" dated August 8, 2006 from Linda Fugit,
19 also a River's Edge customer. (Attachment SAB-12)

20 **Q: What is the reason for the dispute between the customers and the Utility?**

21 **A:** As mentioned in most of the complaints received, the Utility opposes its customers
22 building permanent structures on their lots. In addition, there is a concern expressed that
23 the utility has not built its system to conform to its original ISDH construction permit.

24 **Q: Are any of the utility's customers currently building a permanent structure on a lot**
25 **in the River's Edge service territory?**

26
27 **A:** Yes. Linda and James Fugit, who formerly occupied a two bedroom mobile home, have

1 initiated construction of a two bedroom permanent home on their property located at
2 4814 Rivers Edge Drive, Charlestown, IN. The OUCC Consumer Service Director, Ron
3 Keen, received a letter from C. Gregory Fifer, Applegate & Fifer, dated October 9, 2006
4 regarding "Second Official Complaint and First Request Ruling on Sewer and Water
5 Services for Jim and Linda Fugit." (Attachment SAB-13) This letter describes a
6 September 27, 2006 letter to the Fugits from Alex C. Intermill, Bose McKinney & Evans,
7 "threatening disconnection."

8 **Q: Has the Utility advised its customers of its position with respect to lot owners**
9 **building permanent homes?**

10
11 A: Yes. I have included a letter dated May 27, 2006 from River's Edge Utility, Inc. to the
12 River's Edge Utility Customers. (Attachment SAB-15) I also have included a notice
13 letter, dated July 5, 2006, from J. Christopher Janak, Bose McKinney & Evans, to the
14 River's Edge Homeowners Association. ("Notice Regarding Sewer and Water Service for
15 Proposed Homes in Campground Area") (Attachment SAB-16). I have also included a
16 July 5, 2006 letter from Mr. Janak to the Clark County Planning, Zoning, and Building
17 Commission and the Clark County Board of Commissioners. (Attachment SAB-17)

18 **Q: Have the attorneys representing the Fugits and River's Edge traded**
19 **correspondence?**

20
21 A: Yes. Mr. Janak sent a letter dated October 24, 2006 to Mr. Fifer regarding the Notice of
22 Disconnection of Utility Service. (Attachment SAB-18) Mr. Fifer sent a letter in
23 response on October 26, 2006. (Attachment SAB-19) In response to that, Alex Intermill
24 sent Mr. Fifer a letter dated November 14, 2006. (Attachment SAB-20) Finally, Mr.
25 Fifer sent Mr. Intermill a letter dated November 22, 2006. (Attachment SAB-21)
26

1 **Q: Do the Fugits have approvals from the Indiana Department of Natural Resources**
2 **("DNR") to build a residential structure in a floodway?**
3

4 A: Yes. I have included a copy of a DNR "Certificate of Approval Construction in a
5 Floodway" dated May 17, 2006. (Attachment SAB-22)

6 **Q: Do the Fugits have approvals from the Clark County Planning and Zoning**
7 **Commission?**
8

9 A: Yes. I have included a copy of a "Location Improvement Permit." (Attachment SAB-23)

10 **Q: Ms. Stone refers to one part of the development the utility serves as the**
11 **"Campground Area." Does this term accurately describe the area?**
12

13 A: Not entirely. Ms. Fugit provided me copies of certain documents indicating that River's
14 Edge Community, Inc., the Stone's development company, had sought and received from
15 the Clark County Board of Zoning Appeals a blanket flood plain variance allowing them
16 to place mobile homes in the development. (Attachment SAB-24) In addition, during
17 my visit to the utility's service territory, in addition to the Fugit's permanent home, which
18 is under construction, in the "Campground Area," I observed several different types of
19 structures including many mobile homes, campers, carports, and one fully completed
20 elevated permanent residential structure. I took some pictures of permanent structures in
21 the "Campground Area," which I have attached. (Attachments SAB-25, 26, and 27)

22
23 **Q: Ms. Stone testified that the utility advised the Fugits it would not allow the new**
24 **structures to be connected to the sewer and water systems unless the Homeowner's**
25 **Association and its members entered into a special contract to pay all the costs of**
26 **constructing additional water and wastewater facilities. Is this a reasonable way of**
27 **procuring capacity the utility says it needs to allow service to the Fugits' new**
28 **residence.**
29

30 A: No. A special contract is a mechanism created by the IURC as an exception to the
31 IURC's main extension rules. (See 170 IAC 8.5-4-39.) Thus, it is a mechanism designed

1 to provide for new collection system not additional treatment capacity. Moreover, main
2 extensions refer to extensions needed to provide service to new customers, not existing
3 customers such as the Fugits. By requiring the Fugits and others to enter into a special
4 contract to provide for the expansion of the utility's facilities, the utility is essentially
5 avoiding its responsibility to install the facilities it needs to meet the reasonably expected
6 sewage disposal service requirements within the River's Edge service territory.

7 **Q: When the IURC approves a CTA for a sewage disposal company, is that sewage**
8 **disposal company required to provide service to all customers?**
9

10 A: When a proposed sewage disposal company applies for a CTA, it seeks a determination
11 from the Commission that public convenience and necessity require the rendering of the
12 proposed service in the proposed area by that sewage disposal company. Moreover, the
13 applicable statute (I.C. 8-1-2-89) provides that the reasonably expected sewage disposal
14 requirements of the residents of the development constitute such public convenience and
15 necessity.

16 **Q: Does a sewage disposal company have an obligation to serve only those customers it**
17 **knows about at the time it receives its certificate of territorial authority?**
18

19 A: When a sewage disposal company seeks and receives permission to provide sewer service
20 in a rural area and thereby exclude other service providers, it has an obligation to serve
21 not just the needs of those customers it knows about at that time, but also customers that
22 appear later within its territory. Normally, a sewage utility takes action through planning
23 and investing in order to meet the anticipated demands for service in its territory and
24 adapts to meet the sewer service needs that arise in its territory. A for-profit utility
25 naturally has an incentive to do this because adding customers permits a utility to derive
26 economies of scale and affords it an opportunity to earn a return on the investment in

1 plant it needs to serve the new customers.

2 **Q: Does sewage disposal company have an absolute obligation to build plant in order to**
3 **meet the demands of customers within its territory?**

4
5 A: It is not necessary for the commission to determine in this case that there is an absolute
6 requirement that a sewage disposal company must build whatever it takes to serve all
7 customers in its territory regardless of the demand and cost. But it is expected that a
8 utility, for which public convenience and necessity require the utility to provide service in
9 its certificated territory, will make reasonable improvements to meet the evolving
10 demands of its customers. In this case, I believe that the commission should consider this
11 utility to have an obligation to make the improvements necessary to meet the demands of
12 its customers. Moreover, the Commission should consider the utility to have the
13 obligation to make the improvements that ISDH is requiring.

14 **Q: Is it reasonable for the utility to determine that it will no longer provide sewer**
15 **service to customers such as the Fugits?**

16
17 A: No. The Fugits are not seeking to build a factory that produces unusually hazardous
18 wastewater or industrial waste. Rather, the Fugits are seeking the same type of treatment
19 that others within view of their home are receiving from the utility – treatment of
20 wastewater flowing from a permanent residential home. In fact, it does not seem that the
21 Fugits occupying a permanent structure will have any more impact on the mound system
22 than they did when they occupied their mobile home. Until beginning the construction of
23 their two bedroom home, the Fugits occupied a two-bedroom mobile home on a year-
24 round basis on the same lot. I am unaware what would cause the Fugits to send more
25 wastewater to the mound system than they did previously.

26

1 **Q: Assuming the Fugit's new structure would cause them to produce an additional 110**
2 **gallons of wastewater per day and others might also build permanent structures**
3 **where mobile homes stood, does that justify the utility not serving the new**
4 **structure?**

5
6 **A:** No. Rather, the utility should respond by evaluating what improvements it needs to make
7 to treat the additional wastewater it anticipates. But this utility does not acknowledge it
8 has any responsibility to plan for the future or make improvements that conform to the
9 lot owner's ability to place permanent structures on their river front lots. If there is some
10 basis to prevent such building, it is not the utility's place to enforce such rights. But the
11 utility in this case is effectively functioning like a local zoning authority, since it
12 proposes to prevent development that it asserts does not conform to its plant's capacity.
13 It is not the utility's place to disallow the construction of a permanent home where a
14 mobile home stood. Nor should it embrace the concept of disallowing an existing year
15 round customer to change the structure of their home merely because the law assumes a
16 greater demand for planning purposes. But more importantly, the utility should not be
17 permitted to maintain that it should not have to build a new mound to accommodate
18 greater capacity demands especially when its ISDH permit was issued with the
19 representation that the utility would build more mounds than the utility has, in fact, built.

20 **Q: What do you recommend?**

21 **A:** River's Edge should be required to restore water and wastewater service to the Fugits;
22 continue to provide water and sewer service to its existing customers within the
23 Certificated Territory regardless of whether the customer lives in a mobile home or
24 intends to build and occupy a permanent structure, and finally take steps necessary to
25 procure or have reinstated all required ISDH permits. If River's Edge does not comply

1 with these requirements, I recommend further that the Commission take any and all
2 appropriate action under IC 8-1-30 including the appointment of appoint a receiver to
3 assure compliance with all ISDH requirements and to assure adequate, safe, and reliable
4 service to all of its customers.

5
6 **Q: Does this conclude your testimony?**

7 **A: Yes.**

Bayh, **SCANNED**
John C. Bailey, M.D., State Health Commissioner

OCT 04 2006

Indiana State Department of Health
1330 West Michigan Street
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Indianapolis, IN 46206-1964
317/633-0100 Fax: 317/633-0776



Indiana State Department of Health

An Equal Opportunity Employer

February 28, 1995

Mr. David Stone
4513 Bull Creek Road
Charlestown, IN 47111

Dear Mr. Stone:

Re: Rivers Edge Development
Subdivision and Campgrounds
Cluster System for the
Septic System
Charlestown, Clark County

On March 18 and April 11, 1994, Mr. David Bokodi of the Indiana State Department of Health conducted surveys of your development. In both surveys, several violations of your approval letter were observed. Therefore, Approval GS-4967, dated August 7, 1989, is revoked for following reasons:

1. There are a combination of 98 mobile home and RV camp sites instead of originally approved 76 RV camp sites as defined in the plans and approval letter (a violation of Condition #9 in the approval letter).
2. Since there are mobile home lots, utilized as permanent residences instead of RV camp sites and even more sites, the peak daily wastewater changes along with the assessment per lot from 100 GPD per site to at least 300 GPD per site. This would violate the originally approved maximum daily wastewater load of 7,600 GPD for the 76 camp sites at 100 GPD per site and could cause their associated elevated sand mounds to fail (a violation of Condition #5 in the approval letter).
3. The installed elevated sand mounds are not located and oriented in accordance with the approved plans. (a violation of Condition #9).
4. Likewise, a water well is not located in accordance with the approved plans (a violation of Condition #9).

Mr. David Stone

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February 28, 1995

In order to obtain a construction permit, the following conditions must be satisfied:

1. As-built plot plan of the well sites, all RV sites within the campground, lots within mobile home park, and subdivision lots along with the layout of all constructed and proposed mounds.
2. A accurate topographic map of each existing and proposed mound site with the original soil boring locations defined.
3. The number of independent RV camp sites, residential mobile home lots, subdivision lots with the number of bedrooms per existing or proposed home specified.
4. Revised plans of the mound systems and associated dosing and lift stations once the design criteria of the existing and proposed mounds has been redefined.

Receipt of this information along with a \$50 (fifty dollar) review fee will be deemed a request for a construction permit, and will result in our review of this project.

If you wish to request a review of this revocation, you must petition for a review in writing, demonstrating that:

1. You are a person to whom the revocation is specifically directed;
2. You are aggrieved or adversely affected by the revocation; or
3. You are entitled to a review under any law.

Your request for a review must be filed in writing with the Manager, Sanitary Engineering, Indiana State Department of Health, 1330 West Michigan Street, Indianapolis, Indiana, 46206-1964, on or before March 18, 1995.

If petition for review is granted pursuant to IC 4-21.5-3-7, and you are not a party thereto, notices of any prehearing conferences, preliminary hearings, hearings stays, and other Orders disposing of the proceedings may be obtained by sending a request for notice to the Manager, Sanitary Engineering, Indiana State Department of Health, 1330 West Michigan Street, Indianapolis, Indiana, 46206-1964.

Mr. David Stone

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February 28, 1995

If you do not object to this revocation, you do not need to take any further action.

Sincerely,


DURLAND H. PATTERSON, MANAGER
SANITARY ENGINEERING

ERMiller

cc: Clark County Health Department
Clark County Plan Commission
Margaret Voyles
David M. Bokodi
Environmental Health

07 SEP

Frank L. O'Bannon
Governor

Richard D. Feldman, M.D.
State Health Commissioner



Indiana State Department of Health

An Equal Opportunity Employer

September 12, 2000

Mr. David Stone
River's Edge Development
4513 Stoneview drive
Charlestown, IN 47111

Dear Mr. Stone:

Re: Revised Plans and Specifications
River's Edge Development
Subdivision and Former Campgrounds
Cluster Systems for Septic Systems
Charlestown, Clark County

We have reviewed the information submitted, including the as built plans, since the revocation of septic system on February 28, 1995. Plans and specifications were changed from the originally approved plans without approval from our office. Please submit revised plans and specifications to incorporate the following comments into the future revised plan submittal:

1. The as built plans submitted on April 3, 1996, did not provide one-foot contours in the areas where the mounds for the subdivision and campgrounds area are located. Since the orientation of the mounds and their locations for their associated cluster systems have been changed (the subdivision cluster mound location on the as-built plans were switched with the location for the mounds for the campground from where they were located in the original approved plans), the one-foot site contours and soil borings must be included on the site plan for each of the absorption field locations on the plans.
2. The as built plans indicated that the lot boundaries for both the subdivision and the campground areas have been redefined from what was originally approved in the plans on August 7, 1989, (77 sites now in the as built campground area from 76 sites and 51 lots now in the as built residential area from 27 lots). The usage within the campground area change from sewerer RV sites to residential lots. This changes the wastewater assessment from 100 GPD per RV site to 200 GPD for each residential lot for some of the sites. Since 45 lots were sold for residential living of the 77 sewerer sites in the campground cluster system, the wastewater load for these lots would be 9,000 GPD (Gallons Per Day) at 200

Mr. David Stone

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September 12, 2000

GPD per lot. The wastewater load for the remaining 32 RV sewer sites would be 1,600 GPD at 50 GPD per RV site. Thus, the new design wastewater load for this combined residential and campground cluster system would be 10,600 GPD. One additional mound must be added to the existing cluster of two mounds to meet the new design wastewater load for the combination campground/residential cluster system.

- a. Plans and specifications for this new mound must be reviewed and approved by our office prior to construction (see enclosed design technical data sheets for the new mound).
 - b. Two additional dosing pumps must be added to the campground dosing chamber for the two additional beds in the new mound. Each bed in the three mounds would be dosed sequentially.
 - c. The dose volume per pump cycle would be 442 gallons plus drain back.
3. Additional septic tanks must be added to the collection system to provide the necessary detention time for a wastewater load of 10,600 GPD.
- a. In order to have a detention time within the septic tanks of 48 hours for the wastewater flow from an area, two approved 3,000-gallon septic tanks must be installed in front of the existing 3,000-gallon septic tank on the east side of Lift Station #1 for Lots #1 through #16, #18, #19, #21, #22, #29, and #29 that are residential lots. Two approved 4,000-gallon septic tanks must likewise be installed in front of the existing 3,000-gallon septic tank on the west side of Lift Station #1 for the remaining 23 residential lots and 31 RV sites to the West. See enclosed list of approved septic tanks.
 - b. Please ensure that a sealed access to the surface is installed for each new septic tank. The tanks and sewer connections must be sealed water tight to prevent groundwater and surface water intrusion.
4. The 4-inch force main from Lift Station #2 could be extended directly to Lift Station #1 rather than remain connected to the manhole at Lots #78 and #79. This would help to avoid part of the greater detention capacity requirement through installing the additional septic tanks west of Lift Station #1. In order to evaluate the amount of required detention, the residential lots and RV sites must be designated on the site plan west of Lift Station #1.
5. Please indicate on revised plans which lots within the subdivision residential cluster system have homes built on them. From the submitted as built plans, there are a total of 51 lots (#200 through #236 and #200a through #213a). Only 23 lots for stick built homes (Lots #222 through Lot #200) will be connected to the existing mound cluster system. Lots #223 through #236 will have an

Mr. David Stone

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September 12, 2000

individual septic system for each home while Lots #200a through 213a are not buildable lots. Please indicate the number of bedrooms within each existing home connected to residential cluster system. The original septic system for the cluster of homes was designed to handle a total of 27 two-bedroom homes. Since there is only one mound that is built out of a possible four mounds for this residential cluster system, the existing mound has a capability of handling 3,150 GPD for a maximum of 26 bedrooms at 120 GPD per bedroom or 13 homes with two-bedrooms each.

6. Although a homeowners association documents were submitted for the cluster systems, you must go through the Office of Consumer Council and the Indiana Utility Regulatory Commission to become a utility since you are selling water to the customers in both your subdivision cluster and campground/residential cluster systems and have septic systems in commonality for both clusters of homes. We will not approve revised plans for both cluster septic systems unless we have received documentation from both the Office of Consumer Council and the Indiana Utility Regulatory Commission that you have completed this process.
7. Since you have retained ownership of the septic cluster systems, you must also submit an operations manual on how the septic systems are to be maintained and monitored. See enclosed example of an addendum to a homeowners association organization document.

If you have any questions regarding these comments, please contact Mr. Edward Miller at AC 317/233-7186.

Very truly yours,



HOWARD W. CUNDIFF, P.E., SUPERVISOR
PLAN REVIEW
SANITARY ENGINEERING

ERMiller
Enclosures

cc: Mr. Robert L. Isgrigg, P.E., Bob Isgrigg & Associates, Inc.
Mr. Curt Gassert, Utility Consumer Counselor
Mrs. Kathy Lovan
Clark County Health Department
Clark Plan Commission
Environmental Health

(Possible Format)
BY-LAWS OF _____

SANITARY SYSTEM AND SEWER REPAIR AND MAINTENANCE.

SANITARY TRUST FUND. A sanitary trust fund for emergency repairs to the sanitary treatment facilities shall at all times be maintained in a dedicated interest bearing account. This sanitary trust fund shall consist of moneys collected by the developer upon the initial sale of each of the _____ lots/condos.

Upon the sale of each of the _____ lots/condos, the developer shall collect at the closing the sum of \$ _____ which shall immediately be placed in the sanitary trust account.

This emergency trust fund account shall be used only for emergency repairs and replacement costs associated with the maintenance of the sanitary waste disposal facilities. All moneys placed in this sanitary trust fund account shall be non-refundable.

Upon the sale of the _____ lots/condos, the trust fund shall have a minimum balance of not less than \$ _____, which amount is 25 percent of the original construction cost of the absorption field. If, because of emergency repairs to the septic system, the balance in this sanitary trust fund is reduced below this amount, then the committee shall exercise its rights to make an emergency assessment against lot/condo owners to rebuild the balance of the sanitary trust fund to the original minimum balance of \$ _____.

Any amount above this minimum balance shall be maintained in the account and may be used only for routine maintenance and operation of the sanitary facilities.

For each septic system, -

MAINTENANCE, OPERATION, AND USE SCHEDULE. The septic system to be constructed as a part of this subdivision has been designed for a maximum capacity of _____ Gallons Per Day for a maximum of _____ lots/condos with _____ bedrooms per home/condo.

The sludge and solids in the septic tanks, lift stations, and dosing tanks must be pumped out every (3) years or more often as necessary by a licensed wastewater hauler contracted by the homeowner's association.

The pumps, lift/dosing stations, warning devices and accessories, sewer force mains and sanitary sewer piping, electrical service lines, and other related equipment must be checked on a monthly basis and maintained for proper operation.

(over)

Page 2

An Elapse timer and cycle counter, wired in parallel with each pump, in both the lift and dosing stations shall be monitored on a monthly basis for excessive pump operation as an indicator of groundwater and surface water infiltration into the system and leaks within the residential units. This infiltration and leakage must be minimized or eliminated.

Each home shall have a 5/8-inch water meter with remote read and with a water filter in front of the meter at the discharge from water supply, public or private. Each meter shall be placed to prevent the metering of any water serving the outside hose bibs or any other uses which will not discharge to the septic cluster system. This meter, the remote read, and water filter shall be furnished by the association and installed by the owner at a location approved by the association. These meters must be monitored on a monthly basis to determine excessive water usage within each home above the assigned Gallon Per Day for each home, based on its number of bedrooms (300 GPD for a 2-bedroom, 360 GPD for a 3-bedroom, 480 GPD for a 4-bedroom, and 600 GPD for a 5-bedroom).

The sanitary system is designed for the treatment of biodegradable sanitary wastewater. All other wastes and products that are not biodegradable, or which contain high amounts of grease, fats, or oils shall be disposed of through garbage removal, and not through the septic system. Garbage disposal units in the home/condo units are not recommended.

If a homeowner's sewer line becomes plugged from his home to the main or common sewer or line, it shall be the responsibility of the owner, at his own expense, to clean out the line. If a main or common sewer line becomes plugged, it shall be a common expense of the homeowners and the responsibility of the homeowner's association to have it cleaned as provided in the declaration and by-laws, or prior to the formation of the homeowner's association, it shall be a common expense and the responsibility of the developer.

An easement on, around and to all septic tanks, lift/dosing stations, sewer and force main piping, and absorption field(s) is specifically allowed for the purpose of cleaning, inspecting, and repairing the septic system.

Date: 6 Sept 2000

INDIANA STATE DEPARTMENT OF HEALTH
TECHNICAL DATA SHEET FOR ELEVATED SAND MOUNDS

Project: River's Edge Development (Campground/residential cluster)
Location: County Clark City/Town Charlestown
Legal Description T. _____, R. _____, Sec. _____

A mound system consists of a septic tank(s), dosing tank containing submersible effluent pump(s), and an absorption area constructed above existing grade. The absorption area consists of 2 parts. A medium-textured sand is placed above a filled surface which partially treats and disperses the effluent. A gravel bed formed within the sand contains a distribution network which receives effluent pumped from the dosing tank.

Technical Data:

Design Wastewater Flow 10,600 GPD (Gallons Per Day)

Septic Tank: Total Volume (Gal.) 21,200 Number/Compartments _____

Number of Dosing Tank Pumps 6

Number of Mounds 3 Number of Distribution Networks Per Mound 2

Design Loading Rates (GPD/SF): Bed 1.2 Basal Area 0.5

for new mound Mound Bed: Area (SF) 2,944 Width (Ft) 13 Length (Ft) 227

Depth of Medium Sand Beneath Bed (Inches) 12

for new mound Mound Basal Area (SF) 7,067 Width (Ft) 32

Distribution Network Lateral Spacing (Inches) 30

Although two of the existing mounds were designed to handle 3,800 GPD, the new mound will handle 3,600 GPD.
Only those items marked with an (X) apply to this project.

_____ A single submersible effluent pump is required in the dosing tank. Show the route, diameter, material (including ASTM number for PVC or ABS materials), and slope of the effluent force main from the dosing tank to the manifold. See note Nos. 2, 3, 9, and 13 under Other Design Criteria.

X Two separate distribution networks should be provided in the bed, dividing the bed length into 2 equal sections. Each network section must be separated by a sand wall (see enclosed diagram).

X ~~One~~ ^{Six} submersible effluent pumps are required in the dosing tank. Show the route, diameter, material (including ASTM number for PVC or ABS materials), and slope of each effluent force main from the dosing tank to the manifold in each network of the mound. See note Nos. 2, 3, 9, 13, 14, and 16 under Other Design Criteria.

— Dual submersible effluent pumps in the dosing tank are connected to a common force main through check valves. A ¼-inch diameter hole must be shown at the invert of the common force main within the dosing tank to allow drain back. Show the route, diameter, material (including ASTM number for PVC or ABS materials), and slope of each effluent force main from the dosing tank to the manifold of each network within the mound. See note Nos. 2, 3, 9, 13, 14, and 16 under Other Design Criteria.

X For areas with slopes greater than ½ percent, the basal area within the sand perimeter is defined by the bed length multiplied by the width of the area directly below and downslope of the bed. At a soil loading rate of 0.5 GPD per square foot, 7067 square feet of basal area are required. An overall area of approximately 205 feet by 35 feet is needed for the mound.
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— For areas with slopes of ½ percent or less, the basal area within the sand perimeter is defined by the sand width multiplied by the bed length. At a soil loading rate of _____ GPD per square foot, _____ square feet of basal area are required. An overall area of approximately _____ feet is needed for the mound.

— The subsurface perimeter drains must surround the mound on all sides, spaced at least 10 feet from the outside edge of the sand perimeter within the mound. Specify invert elevations of the drains at each corner of the mound and at the location of a free-flowing outlet. The drains must be at least _____ inches deep and spaced no greater than 65 feet apart along the long axis of the system to provide adequate lowering of the ground water. Show a cross-sectional view of a typical drain trench with a gravel envelope around the drain extending to within 12 inches of the grade.

X Show a surface diversion or swale upslope of the mound to divert surface water runoff around and away from the system.

Kitchen wastewater from sinks and floor drains must be connected to a grease trap ahead of the septic tank(s). Wastewater from garbage grinders used in conjunction with scraping dishes, pots, and pans should bypass the grease trap. Identify these items in a plumbing isometric or plumbing plan layout on the plans. Specify the grease trap capacity on the plans. See note No. 1 under Other Design Criteria.

Other Design Criteria (To be incorporated and specified, as applicable, on the plans):

1. If an approved septic tank will be utilized for a grease trap, the outlet baffle must be modified to extend down to within 6 to 12 inches of the tank bottom. The grease tank capacity must be no less than 1,000 and no more than 4,000 gallons, depending on the volume of food service wastes and the duration of flow during the daily food service operation.
2. Show the route, invert elevations (at building, septic tank inlet and outlet, dosing tank inlet & outlet, manifold and lateral invert elevation), and slope of the sanitary sewer from the building to the septic tank (s).
3. Specify the diameter and ASTM specification of sanitary sewers, effluent force mains, and absorption field piping on the plans in accordance with the List of Acceptable Pipe.
4. Indicate the septic tank (s) size and manufacturer's name and address on the plans from the list of approved tanks. Specify that an access manway with minimum diameter of 18" to 24" extend to the ground surface, fitted with a safely secured, gas-tight cover.
5. For daily wastewater flows in excess of 750 gallons, either 2 septic tanks in series or a 2-compartment tank is required.
6. All tanks must be located at least 10 feet from the nearest building and 5 feet from property lines. Tanks may be located closer than 5 feet to easements or right-of-ways.
7. For large detention capacities, a dimensioned detailed plan must be submitted for site-built tank(s). Specify specific dimensions.
8. Specify on the plans that surfaces, connections, and accesses to all tanks be sealed watertight to prevent both ground water and surface water leakage into the system. This is extremely important as infiltration could result in overloading of the system.

9. Specify the effluent pump(s) capacity based on 1.28 GPM per hole times the number of 1/4-inch holes in each network, including end cap holes. Determine total dynamic head by adding frictional delivery losses, static head between pump off and lateral elevations, and a minimum of 3 feet system operating head. Specify the manufacturer and model, GPM and head, horsepower, and voltage requirements of the pump(s) on the plans. Include a pump curve for the pump(s) specified.
10. The force main should approach the bed from the upslope side or end for sloping sites, and from either end for level sites.
11. To determine minimum dose volume, compare the following 2 volumes and use the larger amount: 1) The design waste water load divided by four doses per distribution network per day; 2) The internal volume of the laterals within the network multiplied by 7.
12. Add the force main and manifold drain back volume to the minimum dose to determine the required dose volume.
13. Show plan and cross-sectional views of the dosing tank, including inside dimensions and elevations of the tank top, floor, and incoming sewer invert. Indicate positions of the encapsulated float switches above the tank floor. Position the "pump-off" to submerge the pump suction, the "pump-on" to provide the required dose volume, and the "alarm" to be located 6 inches above the on level, but below the incoming sewer invert.
14. With a 4-float system, the "lag" float position should be 6 inches above the alarm, but below the incoming sewer invert.
15. Show the following details of the dosing tank: pump(s) mounted on guide rails with lift chain(s) and break-away flanges; locking hatch of suitable size positioned above the pump(s); and an audiovisual high water alarm connected to a separate power circuit. Only non-corrosive materials shall be utilized within the dosing tank.
16. For a multiple pump system, specify that the pumps automatically alternate between doses, and that the controls are located in a watertight control panel. Specify that the audiovisual alarm be on a separate circuit and that the alarm circuit will lock on with any pump failure, requiring manual reset.
17. To protect the site of the proposed mound from compacting, grading, or filling prior to installation, the area must be temporarily isolated by fencing or other means: Otherwise, disturbance of the site may render the area useless and possibly result in revocation of the construction permit.

18. The mound may be constructed no closer than 5 feet to the nearest adjoining property line and 10 feet to the nearest building. Mounds may be located closer than 5 feet to easements or right-of-ways.
19. Any buried sewer, cleanout, manhole, septic tank, or absorption field must be located at least 100 feet from any water wells.
20. The mound must be installed parallel to existing contours. Show existing topography on the plans.
21. The bottom of the mound absorption bed must be level along its length and width. Specify this on the plans.
22. Show a layout of the pressure distribution network(s), indicating lateral length and diameter, hole spacing, center-to-center spacing between laterals, and manifold diameter. Each lateral shall be connected on either side of the manifold, and not in a tee-to-tee arrangement (see enclosed layout).
23. Show a cross-sectional view of typical monitoring wells on the plans in accordance with enclosed cross-section diagram of mound system. Show the locations of monitoring wells on the site plan to allow an adequate visual evaluation of system operation.
24. For mounds with 2 distribution networks, monitoring wells should be placed near the centerline of each network.
25. Specify on the plans that the contractor contact the Plan Review Section of the State Department of Health (AC 317/233-7177), at least 15 days prior to any mound construction, to arrange a pre-construction meeting at the site.
26. If a perimeter drain is provided, the drain shall encircle each absorption area.
27. Show the location of each soil survey boring on the site plan.

EVAN BAYH, GOVERNOR
WOODROW A. MYERS, JR., M.D., STATE HEALTH COMMISSIONER

INDIANA STATE BOARD OF HEALTH
1330 WEST MICHIGAN STREET
P.O. BOX 1964
INDIANAPOLIS, IN 46206-1964

SCANNED

OCT 10 2000

FILE



INDIANA STATE BOARD OF HEALTH

AN EQUAL OPPORTUNITY EMPLOYER

August 7, 1989

Mr. Dave Stone
Bull Creek Road
New Washington, IN 47162

Dear Mr. Stone:

Re: Plans and Specifications for
Rivers Edge Development
(Subdivision and Campgrounds)
Clustered Septic Systems
Bull Creek Road (Section 57)
Charlestown, Clark County

The plans and specifications for sanitary features of the proposed 27 two-bedroom residences and 76 RV campsites have been reviewed and are hereby approved on this date.

This project includes the construction of six clustered absorption fields, consisting of four fields for the subdivision (Lots 1 through 27) and two for the campgrounds. For the 27-lot subdivision, there is on each lot one 1,000-gallon septic tank followed by a 2-foot diameter lift station with a 45 GPM submersible effluent pump, approximately 14,800 lineal feet of 3-inch force main for Lots 15 through 27 and 2,800 lineal feet of 3-inch force main for Lots 1 through 14, two 12-foot diameter dosing tanks, each with a dose volume of 740 gallons and a quadruplex of 139 GPM submersible effluent pumps, approximately 740 lineal feet total of 4-inch force main from each dosing tank, and four elevated sand mounds with a bed area of 2,625 square feet and a basal area of 6,300 square feet in each mound, encircled by subsurface perimeter drains. For the 27 campsites, there are approximately 2,670 lineal feet of 8-inch sanitary sewer, four 3,000-gallon septic tanks, two 8-foot diameter lift stations with dose volumes of 565 gallons and duplex submersible effluent pumps of 88 GPM in one lift station and 80 GPM in the other, approximately 3,270 lineal feet of 6-inch force main, one 12-foot diameter dosing tank with a dose volume of 846 gallons and quadruplex of 197 GPM submersible effluent pumps, approximately 880 lineal feet total of 4-inch force main from the dosing tank, and two elevated sand mounds with a bed area of 3,198 square feet and a basal area of 11,562 square feet in each mound, encircled by subsurface perimeter drains.

"The health of the people is really the foundation upon which all their happiness and all their powers as a state depend."
-Disraeli

Mr. Dave Stone

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August 7, 1989

This project also includes the construction of approximately 3,850 lineal feet of 3-inch water line for the campground and 4,150 lineal feet of 3-inch water line for the subdivision connecting to two proposed wells of 4- and 8-inch diameters to be permitted by the Public Water Supply Section of the Indiana Department of Environmental Management.

This approval letter shall act as your construction permit.

This project is approved subject to the following conditions:

1. That construction of the campground and subdivision commence only after approval of the wells and water supply has been received.
2. That the Division of Sanitary Engineering, State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana, be notified at least 30 days prior to the date mound construction is to be undertaken so that a pre-construction conference with the contractor can be arranged (317/633-0177). It is of vital importance to the success of your mound disposal system that the contractor has a complete understanding of mound construction techniques.
3. That disinfection of the wells and water lines follow procedures outlined by applicable American Water Works Association Standards and produce bacteriologically satisfactory water in two successive sets of samples collected at 24-hour intervals before the facilities are released for use.
4. That the construction of these sanitary sewers shall be such as to minimize infiltration and to prevent the entrance of roots. The infiltration or leakage outward shall not exceed 200 gallons per inch of pipe diameter per mile per day for any section of the system.
5. That no change in occupancy or use of the facility served be effected if it would result in wastewater flow on the peak day in excess of 15,700 Gallons Per Day, or if it would result in wastewater being generated of a type incompatible with absorption field disposal. Any such change in occupancy or use may be made only after the board has issued a construction permit for modifications to the subject wastewater disposal facility that will allow it to accommodate increased wastewater flows.
6. That all necessary local permits and approvals be obtained before construction is begun on this project. You are hereby notified that most county and local health departments, and several conservancy districts as well, require that a sewage disposal permit be obtained before construction may begin. The sanitary features of this project must also comply with any additional local health department requirements.
7. That if pollution, health hazards, or nuisance conditions develop or are created, immediate corrective action be taken by the owner.

Mr. Dave Stone

-3-

August 7, 1989

8. That the permittee notify the board and the local health department at least seven days before construction of the approved commercial on-site wastewater disposal facilities is to commence.
9. That plans and specifications for any changes, alterations or additions to this 27-lot subdivision with two-bedroom residences and 76-lot RV campground as herewith approved be submitted and approved prior to such construction.

These plans and specifications were prepared and certified by Mr. Robert L. Isgrigg, P.E., Clarksville, Indiana, and submitted on May 4 and July 17, 1987; February 29, 1988; and February 23, June 5 and 22 and July 12, 1989.

This Approval shall be void if construction is not begun before September 1, 1990.

If you wish to request review of this Approval, you must petition for review in writing, demonstrating that:

1. You are a person to whom the Approval is specifically directed;
2. You are aggrieved or adversely affected by the Approval; or,
3. You are entitled to review under any law.

Your request for review must be filed in writing with the Director, Division of Sanitary Engineering, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206, on or before

August 25, 1989.

If a petition for review is granted pursuant to IC 4-21.5-3-7, and you are not a party thereto, notices of any prehearing conferences, preliminary hearings, hearings, stays and other Orders disposing of the proceedings may be obtained by sending a request for notice to the Director, Division of Sanitary Engineering, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206.

If you do not object to this Approval, you do not need to take any further action.

Very truly yours,

Howard W. Cundiff
Howard W. Cundiff, Director
Division of Sanitary Engineering

ERM/ds

Approval No. GS-4967 ✓

cc: Mr. Robert L. Isgrigg, P.E.
Clark County Health Department
Clark County Plan Commission
General Sanitation Section

STATE OF INDIANA)

BEFORE THE INDIANA STATE
DEPARTMENT OF HEALTH

) SS:

COUNTY OF MARION)

CAUSE NO. SE-30-95

DIVISION OF SANITARY ENGINEERING,
INDIANA STATE DEPARTMENT OF HEALTH,

v.

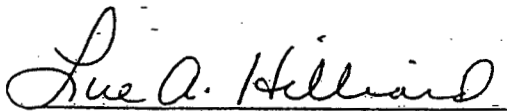
PLANS AND SPECIFICATIONS FOR
RIVER'S EDGE DEVELOPMENT
SUBDIVISION AND CAMPGROUNDS
AND CLUSTER SYSTEM FOR THE
SEPTIC SYSTEM
CHARLESTOWN, CLARK COUNTY.

NOTICE OF FINAL ORDER

You are hereby notified that on the 15th day of October, 1996, the State Health Commissioner, John C. Bailey, M.D. issued and entered the attached FINAL ORDER, concerning the above-referenced matter which adopts the Administrative Law Judge's order.

A copy of the FINDINGS AND ORDER, is attached hereto and made a part of this Notice of Final Order.

Dated at Indianapolis, Indiana this the 16th day of October, 1996.



LUE A. HILLIARD
ADMINISTRATIVE COORDINATOR

Enclosures

cc: Carmen L. Quintana, Staff Counsel, Office of Legal Affairs, ISDH
Benjamin R. Hippensteel, Division of Sanitary Engineering, ISDH
David M. Bokodi, Division of Sanitary Engineering, ISDH
Margaret A. Voyles, Division of Sanitary Engineering, ISDH
Clark County Health Department
Clark County Planning Commission
Courthouse
Jeffersonville, IN 47130-4079
Mr. David Stone
4513 Bull Creek Road
Charlestown, Indiana 47111
Cert. Mail No. P 143 762 016

STATE OF INDIANA)
) SS: _____
COUNTY OF MARION)

BEFORE AN ADMINISTRATIVE LAW
JUDGE ON BEHALF OF THE INDIANA
STATE BOARD OF HEALTH

RE: DIVISION OF SANITARY ENGINEERING,
INDIANA STATE DEPARTMENT OF HEALTH,
PLANS AND SPECIFICATIONS FOR RIVER'S
EDGE DEVELOPMENT SUBDIVISION AND
CAMPGROUNDS AND CLUSTER SYSTEM FOR THE
SEPTIC SYSTEM.
CHARLESTOWN, CLARK COUNTY.

Cause #SE-30-95

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ORDER

This matter came before Jill S. Frantz, duly appointed Administrative Law Judge (ALJ) for hearing on July 9, 1996. The State Department of Health, Division of Sanitary Engineering, (hereinafter referred to as Respondent) was represented by James Roesinger, Esq. David and Carolyn Stone, (hereinafter referred to as Petitioners) presented their case pro se.

After consideration of the evidence herein, and being duly advised in the premises, the following Findings of Fact, Conclusions of Law, and Recommended Order are hereby issued.

FINDINGS OF FACT

1. That Respondent is the Division of the Indiana state agency with responsibility to administer the program reviewing plans, approving septic systems and issuing construction permits for such in campgrounds, and for approving the sanitary features of the proposed residences on the property owned by Petitioners.

2. That on August 7, 1989, Respondent approved the plans and specifications for sanitary features of the proposed 27 two-bedroom residences and 76 RV campsites for Petitioner's property located on Bull Creek Road in Clark County, Indiana. (Respondent's Exhibits 1 and 2.)

3. That the construction permit and approval were granted with the stipulation that plans and specifications for any changes, alterations or additions to this 27-lot subdivision with two-bedroom residences and 76-lot RV campground be submitted and approved by Respondent prior to such construction. (Respondent's Exhibit 2.)

4. That on February 28, 1995, Petitioners were notified, in a letter signed by Durland H. Patterson, that their approval was revoked. The letter listed four reasons for the revocation. (See Respondent's Exhibit 3.)

5. That on March 8, 1995, ~~Petitioner~~ David Stone sent a letter in response to the revocation notice. (See Petitioner's Exhibit 1.) This letter verifies that at least the installation of the second well was not done in accordance with the approved plans.

6. That on April 3, 1996, Petitioners submitted revised plans that reflected what construction had actually occurred on the property. These revised plans were received by Respondent more than one year after the approval of the original plans was revoked. (Respondent's Exhibit 4.)

7. That the inspection of the property done by Respondent's employee noted that there were 38 or 39 home sites, 11 or 12 more than were approved originally. (Respondent's Exhibit 5.)

8. That Petitioner Carolyn Stone testified that there were 37 building lots, which is at least 10 more lots than were approved. She stated that some of the residences will have their own septic systems.

9. That the septic system mounds have not been oriented or located as per the approved plans. Petitioner's testimony and her Exhibit 1 verify this as does Respondent's Inspection Report, Respondent's Exhibit 5.

10. That, in addition to other variations from the original approved plans as noted above, Respondent's Exhibit 4, (Petitioner's revised plans) indicates that: (1) the lot boundaries have changed; (2) the number of sewered lots exceeds the number on the original approval, thus increasing the number of lots on each septic tank; (3) the private ownership of the lots could change the amount of wastewater going into the system as originally approved.

11. That 410 IAC 6-10-9(3) requires that any proposed changes, alterations or additions to the wastewater disposal facilities approved be submitted to the Indiana State Department of Health, prior to the start of construction to effect the proposed changes, alterations or additions.

12. That Petitioners did not present evidence to dispute the fact that they did not seek approval for the changes they made in the original approved plans, and in fact, admitted that many of the Respondent's documented violations, changes, alterations to the plans or additions were effected.

13. That the Administrative Law Judge takes Judicial Notice of the applicable rules governing this case, namely 410 IAC 6-10, 410 IAC 6-8.1 and Bulletin SE 13.

CONCLUSIONS OF LAW

1. That this matter is properly before the Administrative Law Judge, pursuant to IC 4-21.5, and she has the authority and jurisdiction to hear and rule upon all matters presented herein.

2. That no procedural defect in the hearing process occurred.

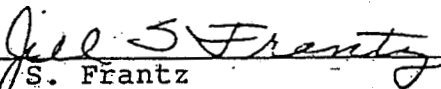
3. That Respondent presented unrefuted evidence as to Petitioner's failure to abide by the conditions set out in the permit and the law governing residential and commercial on-site wastewater disposal.

RECOMMENDED ORDER

WHEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, the Administrative Law Judge hereby recommend that the Petitioner's Approval GS-4967, dated August 7, 1989. be REVOKED, and that Petitioner's appeal of the revocation be DISMISSED.

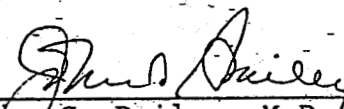
It is therefore, ORDERED, ADJUDGED AND DECREED that Petitioner's approval be REVOKED and that their appeal be DISMISSED.

Recommended this 13TH day of July, 1996.



Jill S. Frantz
Administrative Law Judge

APPROVED AND ISSUED this 15TH day of October, 1996.



John C. Bailey, M.D.
State Health Commissioner



Mitchell E. Daniels, Jr.
Governor

Judith A. Monroe, M.D.
State Health Commissioner

SCANNED

OCT 10 2006

FILE

Indiana State
Department of Health
An Equal Opportunity Employer

August 1, 2006

VIA CERTIFIED MAIL

Mrs. Carolyn Stone
River's Edge Utility, Inc.
4513 Stoneview Drive
Charlestown, IN 47111

Dear Mrs. Stone:

Re: River's Edge Development
Cluster Systems
Bull Creek Road
Charlestown, Clark County

This will acknowledge your past submittal of information about the existing cluster systems and recent complaints from property owners about the operation and loss of compliance of the septic systems for both the residential cluster and campground/residential cluster septic systems. The septic systems for both the residential cluster and the old campground area were approved on August 7, 1989; however, because construction of the septic system was not in compliance with the plans, the Construction Permit No. GS-4967 was revoked on February 28, 1995.

In an effort to address the revocation of the 1989 permit we conducted a detailed review of as-built plans and provided our review to you on September 12, 2000. Our review of all the septic systems identified many areas of non-compliance. Copy of our letter is attached. I am deeply concerned that the revised plans we requested in our review have never been submitted to address those areas of noncompliance and that you have also failed to contact us to discuss a resolution of these problems.

Now, we are again addressing complaints that you have added additional connections to the existing systems without our approval. You must take action immediately to start to address these violations of 410 IAC 6-10. As a start we are requesting that no-later-than forty-five days from the date of receipt of this letter that we receive up-to-date as-built plans that include all changes to the facilities since the onsite sewage systems were original approved in 1989. I encourage you to take this request seriously.

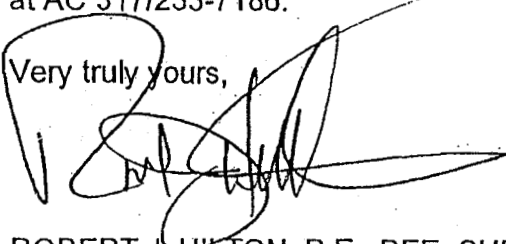
Mrs. Carolyn Stone

- 2 -

August 1, 2006

If you have any questions regarding these comments, please contact Mr. Edward Miller at AC 317/233-7186.

Very truly yours,


ROBERT J. HILTON, P.E., DEE, SUPERVISOR
PLAN REVIEW
SANITARY ENGINEERING

ERMiller

Enclosures

cc: Clark County Health Department

Clark County Plan Commission

Mr. Jerry Webb, Director of Gas, Water, and Sewer, IURC

Office of Legal Affairs, ISDH

Mr. Gary Fields, Rivers Edge Association

SCANNED

SEP 27 2006

FILE
Jeffery King

SAB ATTACHMENT 6
CAUSE NO. 43115
PAGE 1 OF 2

1410 Basswood Court
Jeffersonville, IN 47130
July 28, 2006

RECEIVED

AUG 01 2006

INDIANA UTILITY
REGULATORY COMMISSION

Consumer Affairs Division
Indiana Utility Regulatory Commission
Indiana Govt. Center South
302 West Washington Street
Suite E-306
Indianapolis, Indiana 46204

To whom it may concern,

I am in the process of obtaining the necessary permits to build a home on a lot that I own located at 4612 Rivers Edge Drive, Charlestown, Indiana 47111. Currently on my lot at this location I have a camper trailer and have water and sewer services provided by Rivers Edge Utility, Inc. I have had service since 2001 and have also been a year round resident.

I recently received a letter (see attached) from the attorney of the utility that states: "If I build a permanent residence, the utility will not provide me service. My water and sewer usage will not increase with the building of my new home as there are only two in our family. When the utility applied to become a CTA in and was approved by your agency on February 6, 2003, I was one of the eleven campground owners that was paying a flat sewer and water fee twelve months a year. I do not see how my water and sewer usage will increase 300 % or 310 gallons a day as they claim as I am sure my usage will remain the same with no increase of our family."

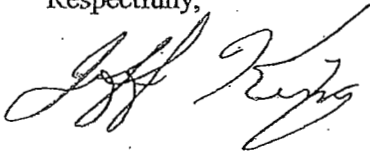
I do not see if three or four of the current eleven campgrounds can provide to town as build up we will overtax the system and cause a failure. In the attorney's letter he claims that the Indiana State Board of Health will attest that the current mound system does not have the capacity to treat the additional sewage and that there is no additional ground upon to construct new mounds. This is not true. The current utility does not have a permit from the ISBH as their permit was revoked February 28th, 1995 as David and Carolyn Stone, the primary shareholders of Rivers Edge Utility, Inc. did not complete the proposed system submitted to them. Yet on December 19, 2002 at a public evidentiary hearing held by your agency with Administrative Law Judge Wm. Divine presiding, Carolyn Stone gave direct testimony and exhibits and an approval letter from the ISBH that they could lawfully operate a sewer system. Your office had two representatives that testified at this hearing, Dana Lynn and Roger Pettijohn. It seems that someone did not do their homework and dropped the ball. Your agency found that the petitioner possessed the requisite lawful power and authority to provide service and become a CTA. At that date and time, and as of this date, according to the ISBH the Rivers Edge Utility, Inc. did not and does not have a lawful permit. Who failed to check this out? Has the law or state statutes been broken by

testimony given in committee and supported by a governmental agency that is supposed to represent the consumers of this state? I do not want to be the one that the system failed to protect my well being. It appears that one agency does not communicate with other Indiana governmental agencies and the public needs and rights have not been protected.

I ask that you address this as time is of an essence. We wish to begin building in September in order to complete my home by the end of the year before bad weather sets. I do not want to construct my new residence if I can not get the utility to provide me service. I feel like I am being held hostage by this situation. Please allow me to continue my utility service with the utility during this period and in the future. I only wish I may build up and complete my wife's dream retirement home.

Thank you for your help into this matter.

Respectfully,

A handwritten signature in dark ink, appearing to read "Jeff King", with a stylized, cursive script.

Jeff King

Ronald Jones

*715 Martha Avenue
Jeffersonville, IN 47130
July 28, 2006*

Consumer Affairs Division
Indiana Utility Regulatory Commission
Indiana Govt. Center South
302 West Washington Street
Suite E-306
Indianapolis, Indiana 46204

To whom it may concern,

I currently have two lots in the Rivers Edge Community, one that is vacant with no sewer and water connections and the other that has a mobile home. I pay a flat yearly fee on my mobile home lot to Rivers Edge Utility and I am being forced to pay six months on the vacant lot even though I am provided no services or need services on this lot. This does not seem right. It states this in the Rules and regulations that the utility may do this, but it does not say when these regulations were approved by your agency. I have a hard time believing that your agency would allow this type of price gouging to happen. Please provide me with an answer as I feel that no one is looking out for my interests. It needs to, please ask that the Attorney General Office look into this matter as a price gouging case.

Respectfully,

Ronald A Jones

Ronald Jones

*your
info*

River's Edge Utility, Inc.

4513 Stoneview Drive
Charlestown, IN 47111

WATER WORKS AND SEWER RULES AND REGULATIONS FOR CAMP, RESIDENTIAL AND
COMMERCIAL LOTS

1. Minimum and Maximum Charge

The metered gallon rate, as set forth in the currently tariffed water and sewer rate schedule will be payable for metered residential and commercial customers by monthly billing. *A flat monthly rate, as set forth in the currently tariffed water and sewer rate schedule will be payable for sold mobile home and camp lots (6 month minimum) for summer only customers by annual billing. A flat monthly rate as set forth in the currently tariffed water and sewer rate schedule will be payable for sold mobile home and camp lots (year round users) by prearranged monthly, quarterly, semi-annual, or annual billing.

11. Refunds

Prepaid mobile home and camp lot customers whom transfer ownership of lots, may receive a refund after new customer pays the currently tariffed water and sewer connection rates, and the refund balance of previous customer's account.

111. Tap Fees

The Company shall charge a tap fee as provided by the currently tariffed water and sewer rate schedule for each new water and sewer connection. The appropriate tap fees shall be paid to the Company prior to the tap being authorized and shall not vary as specifically set forth in the currently tariffed water rate and sewer rate schedule.

IV. Voluntary Disconnection for Metered Customers

The customer shall notify the Company at least three (3) days in advance of the day disconnection is desired. The customer shall remain responsible for all service used and billings therefore until service is disconnected pursuant to such notice. The Company shall disconnect the service within three (3) working days of the request and the customer shall not be liable for any service rendered to such location after the expiration of three (3) days. If a user has had service voluntarily discontinued the user must pay all bills due and payable plus the reconnection fee as set forth in the currently tariffed water and sewer rate schedule.

V. Voluntary Disconnection for Camp Lot Non-Metered Customers

A. The minimum charge on sold mobile home and camp lots covers April 1 to September 30. Customers will voluntarily disconnect before November 3rd of each year. Customers not requesting voluntary disconnect will pay the recurring flat monthly rate.

SCANNED

OCT 10 2006

FILE

Rivers Edge Homeowner's Association

Gary Fields, President

3127 Oriole Drive

Louisville, KY 40213-1105

502-636-2588

Jun 26, 2006

Mr. Hilton
Sanitary Engineering
Indiana State Department of Health
2 Meridian Avenue Section 5E
Indianapolis, IN 46204

Dear Mr. Hilton,

As the new president of Rivers Edge Homeowner's Association, there has been a lot of discussion of our water and sewer system of Rivers Edge Utility, Inc.

It is my understanding that in 1989 David and Carolyn Stone submitted plans with the Indiana Dept. Of Health and where approved a sewer mound system. It is my understanding that in February 1995 there was a revocation of the utility's permit for not being in compliance with there original plans. I talked to Mr. Ed Miller and he informed me that in September 2000 that the Stone's submitted new plans in order to be in compliance with the water and sewer system.

A lot has changed in the last couple of years. Federal legislation has allowed some of the existing campgrounds with variances to build up and have a permanent home on the river. Some have questioned if the Stones have actually built the utility as to their original plans that they submitted to the state and are they currently in compliance with state laws.

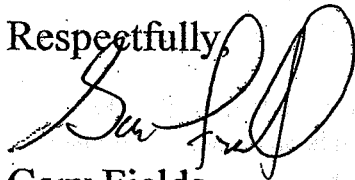
In order to put everyone's mind at ease, I ask that you please have

someone look into these complaints and let us know what the utility is supposed to have and what have they really got. We formed a committee to look into this with Mrs. Stone serving but she resigned before the first meeting. She based here resignation on advise she claimed from the IURC attorney (Please see attached e-mails). Mr. Miller said that with earlier conversations with Mrs. Stone, it came down to that she knew what needed to be upgraded but did not want to spend the money. Since that time the Stone's have sold additional new lots and added campground spaces. No one seems to know what is attached to what and what system is working or the water flow for the permanent homes, modular homes and camp sights. I would like to know if they are now in compliance, will the system handle the new construction of single family residences, and if they are not in compliance, who should pay to have the system brought up to code? They are both the developer and utility company and Mrs. Stone has already let it be known that the property owners will have to pay to bring everything up to compliance.

I just want to know the truth. And if anything has been done wrong criminally or civilly, would like to know so I can address those matters with the proper authorities.

Thank you for your help into these matters. Your prompt attention into these issues will be deeply appreciated.

Respectfully,



Gary Fields
Rivers Edge Association

Cc: Ed Miller
Linda Fugit

SCANNED

OCT 17 2006

William G. Fields

3127 Oriole Drive
Louisville, Kentucky 40213-1103
502-636-2588
October 9, 2006

Scott Bell
Consumer Affairs Division
Indiana Utility Regulatory Commission
Indiana Govt. Center South
302 West Washington Street
Suite E-306
Indianapolis, Indiana 46204

Dear Scott,

As the President of River's Edge Association, I ask that you please ask the commission to please follow up on the original complaint from Jeffrey King of July 29, 2006 against River's Edge Utility, Inc. and include the other complaints that you have received and not just the possible fraud that was committed to receive their CTA. The hearing is scheduled for next Monday, October 16th. Even though Mr. King has sold his property, our association has another resident building up, and that is Jim and Linda Fugit.

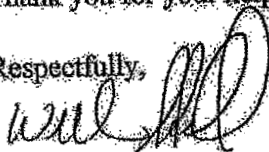
When FEMA allowed property owners to build new homes above the flood plain in 2003, David and Carolyn Stone has tried everything to stop these property owners from building their retirement homes. Now she is informing anyone who wishes to build up that they can not hook to the sewer system, even though she has allowed two other homeowners to build up and has continued to provide them with sewer rights.

The Stones were the original developers of the community. You have since learned that the Stones has never had the water and sewer system in compliance with Indiana State Law or what they agreed to with the ISDH when they first applied to become a utility.

As the President of the association, I ask that you address all the issues and not leave us hostage to the Stone's on what I can do with my property and be threatened that my sewer rights will be taken away if I do not do what they (The Stones) say. We just want the basic services in which we are currently paying for and being serviced by Rivers Edge Utility.

Thank you for your help into this matter.

Respectfully,



William G. Fields
President-Rivers Edge Association

William G. Fields

3127 Oriole Drive
Louisville, Kentucky 40213-1105
August 22, 2006

Attorney General Steve Carter
Consumer Protection Division
Indiana Govt. Center South, 5th Floor
302 West Washington Street
Indianapolis, Indiana 46204

Honorable Steve Carter,

I am the President of Rivers Edge Homeowners Association that is located in Clark County and in the city of Charlestown. We are provided water and sewer services from Rivers Edge Utility that is owned by the shareholders David and Carolyn Stone. They are also the developers of the Rivers Edge community and have sold numerous lots and rent lots to summer tenants. Several of our property owners are in the early process of building new homes along the Ohio River. Two have already obtained building permits. Our association received a letter from the attorney of Rivers Edge Utility that current residents will not be allowed to hook up to their existing sewer and water privileges that they currently have if they build a new home. (See attached). This is keeping them from starting construction of their homes since no one will give them an answer if they can continue to have water and sewer rights that they have had for years.

There has been numerous complaints and violations by the Stones since inception of this development. I have included a Summary Time line of Events Regarding River's Edge Development's Sewage System. This all started in 1987. On February 28, 1995 the Indiana State Board of Health revoked their conditional use permit. In September of 2000 the Courier Journal newspaper in Louisville did an article that River's Edge lacks sewage system permit. (Page 5 of Summary Time line of Events.)

On September 12, 2000 the ISDH sent David Stone a letter stating what they needed to do in order to come into compliance. (Page 5 of Summary of Time line of Events and letter attached.) In 2002 the Stones applied to the Indiana Utility Regulatory Commission for a Certificate of Territorial Authority to provide sewage service and was granted this Authority on February 5, 2003. There was testimony given and exhibits provided by Carolyn Stone on December 19, 2002 at the public evidentiary hearing conducted by the IURC and heard by Administrated Law Judge William Divine that where inaccurate and false. The Stones had documentation that they had a lawful permit (Exhibit # 12 in the hearing agenda) and it was recognized by the IURC that the Stones had a requisite lawful power to provide utility service in the CTA, when, in fact, their power had been revoked in 1995. The IURC never checked with the ISDH to see if they (the Stones) had a valid permit. They took Mrs. Stone's word for it. To this date, they still do not have a valid permit to operate as a utility in the state of Indiana. And, they have a CTA from the

IURC.

On August 1 of this year Robert Hilton of ISDH sent Mrs. Stone a letter that gave them 45 days to submit a plan to bring the utility up to compliance. (Copy Attached) I have talked to Scott Bell with IURC and they do not know if and when they are going to have a hearing on this matter. I met with him and a Mr. Roger Pettyjohn in July and they informed me that he was going to contact the ISDH. As of Friday August 18th this had not been done. Today I sent Mr. Bell him a copy of Mr. Hilton's letter sent to Mrs. Stone of August 1. .

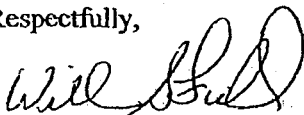
It appears that Indiana government agencies do not cooperate or talk to one another. When talking to Scott Bell he informed me that IURC could do nothing to Mrs. Stone if she was untruthful or perjured herself or gave false information to his agency because they are a regulatory agency and they have no enforcement powers. Isn't perjury or fraud a crime, or does no one care? I realize that this could be embarrassing for IURC if they issued a CTA to the utility when there conditional use permit was revoked, but Mr. Pettyjohn testified back in 2002 in this case along for a rate increase for the utility in this hearing. Three of us attended the meeting in July with Pettyjohn and Bell. Mr. Pettyjohn let us know he was a good friend of David Stone. We all felt he was quite arrogant in this meeting until we let him know that we knew the Stone's utilities permit was revoked in 1995 when they petitioned the IURC to obtain a CTA in 2002. He then asked why ISDH didn't let him know it was revoked when the Stone's applied for their CTA? We told him that according to ISBH, that he (Pettyjohn) had never asked. So my question is, did he possibly not do his job and allow his friendship help the Stones get the CTA?

Mr. Bell also informed me he had spoken to Mrs. Stone's attorney, J. Christopher Janak of Bose, McKinney & Evans LLP, and asked if they would be interested in selling the utility. He said that Mr. Janak could not speak for Mrs. Stone but that she may be willing to sell. I feel that since she is the developer of the community and owns the utility, she would have to bring it up to compliance with ISBH before they sold or gave up the utility. And this should be the plans they submitted in 1987.

My secondary concern as a former law enforcement officer is, did Mrs. Stone perjure herself or commit fraud or break Indiana law or laws in obtaining their rate increase and CTA in 2002. And did Mr. Pettyjohn allow his friendship help the Stone's in there efforts to obtain a rate increase and CTA?

I ask that you please look into these allegations and inform me if you plan to pursue any action in this case. Thank you for your help into this matters.

Respectfully,



William G. Fields
wgfields@bellsouth.net

**Summary Timeline of Events Regarding
Rivers Edge Development's
Sewage System**

Legend of Abbreviations Used:

DNR = Department of Natural Resources

ISBH = Indiana State Board of Health

IURC = Indiana Utility Regulatory Commission

OCC = Office of Consumer Council

April 29, 1987

Plans and Summary Submitted to ISBH & DNR

Divided into 2 Sections and 2 Mound Systems

Subdivision Lots - to be sold to individuals

Campground Lots - to be only rented

Subdivision System

Septic Tank at each house discharging to sewage collection system which will dose to an alternating mound **system** consisting of **4 mounds**.

Campground System

Septic Tank per two sites discharging to sewage collection system which will dose to an alternating mound **system** consisting of **4 mounds**.

Planned in 2 phases with half the mound system initially constructed and operated as non-alternating type.

Phase 1

2 mounds non-alternating

Phase 2

2 mounds additional and become alternating

Total number of mounds to be constructed *initially* = **6 mounds**
(4 Subdivision mounds + 2 Campground mounds)

Total number of mounds after Phase 2 is *completed* = **8 mounds**
(4 Subdivision mounds + 4 Campground mounds)

Sept. 29, 1987

ISBH Review of Plans and On-Site Soil Survey

Spells out more detailed and specific requirements for systems and requires plans be routed through DNR and approval letter obtained from DNR since building within the flood plain.

Oct. 28, 1987

DNR Certificate of Approval of Construction in a Floodway

Condition #4 "the campgrounds cannot be converted into residential development in the future,"

Later over-ruled by Administrative Law Judge Tim Rider in the matter of DNR vs. David and Carolyn Stone on January 16, 1992 stating "that technically, a campground is a residential development" (item #89). Furthermore, "Placing of mobile homes in the campground was always the intention of the Stones" (item #87).

May 12, 1988

ISBH Review of Revised Plans

Spells out minor changes to be made and *also* requires that:

"A homeowners association must be legally created to bind the homeowners together for the maintenance and operation of their septic and water supply systems. This agreement must be recorded and a copy of the document sent to us."

Later amended by ISBH in Sept. 12, 2000 when they dictated that Mr. Stone "must go through the Office of Consumer Council and the Indiana Utility Regulatory Commission to become a utility since you are selling water to the customers" and "since you have retained ownership of the septic cluster systems".

Aug. 7, 1989

ISBH Review and Approval of Plans and Specifications Letter

Approves the sanitary features of the "27 two-bedroom residences and 76 RV campsites" and calls for the construction of **6 mounds** (4 Subdivision mounds + 2 Phase 1 Campground mounds).

Also, calls for one 1,000-gallon septic tank on each subdivision lot; four 3,000-gallon septic tanks for campground lots; and many other *very detailed* aspects of the systems.

Sept. 20, 1989

Repair Permit issued by Clark County Health Officer

"Special Recommendations or Comments: **6 mound systems** with drainage: Must be installed according to Engineer's design and state criteria"

March 18, 1994

ISBH Field Representative's Pictures and Comments

Series of six pictures taken by ISBH Field Representative David M. Bokodi showing:

- 1) Rivers Edge Subdivision advertisement, located at entrance of the development. Showing **37** lots, 9 of which were indicated as sold.
- 2) Rivers Edge "Campground" showing recently constructed beige metal "Clubhouse" which have male & female bathroom facilities.
- 3) Rivers Edge "Campground" sign indicating Lots for Sale with all utilities.
- 4) Rivers Edge "Campground" showing mound system improperly located and oriented.
- 5) Rivers Edge "Campground" looking to East from West showing mobile homes.
- 6) Rivers Edge "Campground" looking to West from East showing mobile homes.

June 27, 1994

ISBH Letter to Indiana Assistant General Council

Advising Assistant General Council "of an apparent unregistered utility" and that "Sewage disposal is provided, using **one** existing on-site mound system with **five** additional mounds planned for construction."

June 27, 1994

Clark County Health Department Letter to Mr. & Mrs. Stone

"The following are items that will bring the Rivers Edge **Subdivision** portion of your project into compliance with Clark County Board of Health regulations."

"The **4 mounds** for the residential lots that are on the sewage collection system should be constructed as previously approved and permitted. The **1st** mound must be completed in 90 days."

"These decisions only relate to your **subdivision** lots. The status of your campground and whether the state will require you to change the status quo or future plans is unknown."

Feb. 28, 1995

ISBH Notice of Violations and Revocation of Approval Letter

Sent to Mr. David Stone stating:

"On March 18 and April 11, 1994, Mr. David Bokodi of the Indiana State Board of Health conducted surveys of your development. In both surveys, several violations of your approval letter were observed. Therefore, Approval GS-4967, dated August 7, 1989, is **revoked** for the following reasons:"

The letter then goes on to specify the violations and request "**As- Built**" plans be sent to the ISBH for review and re-evaluation of the design criteria. Also, spells out the procedure for requesting a review of this revocation if he objects to this revocation.

March 5, 1995

David Stone's Reply Letter to ISBH Revocation

Request review of revocation, attempts to explain and justify some of the violations, and states "We have done absolutely nothing wrong or compromised the workability of the utility system we have in place. It functions properly everyday and you have never, ever had a complaint from any of the county officials, any adjacent property owner, or any of the people who enjoy this summer get-a-way."

April 1, 1996

Carolyn Stone's Letter to Office of Legal Affairs

Encloses fee for revocation review and revised plan drawings from engineer Robert Isgrigg as previously requested in February 28, 1995 letter from ISBH.

Plans submitted call for 51 Subdivision Lots and 122 RV/Camp Lots.

April 15, 1996

Memo from Rachael Hamilton, Environmental Scientist III

Preparing for upcoming Review Hearing it is a timeline of events with comments about specific dates that outlines evidence that may be used against the Stone's at hearing.

April 20, 1996

Courier-Journal Newspaper Article

Regarding Robert Isgrigg's legal negotiations with the State Attorney General's Office and subsequent probation of license by the Indiana State Board of Registration for Land Surveyors.

May give partial explanation as to why submission of revised plans took approximately 1 year to complete as Mr. Isgrigg was busy fighting his own legal battles regarding "sufficient questions about his competency."

May 13, 1996

Memo from Rachael Hamilton, Environmental Scientist III

"According to the permit specifications, the River's Edge Development had been granted sewage disposal capacity for 15,700 gallons per day. Six mounds were to be constructed for the residential development and the campground. Each mound was designed to handle 3,150 gallons per day. At the present time, 3 mounds have been constructed, one serving the subdivision, and two serving the campground."

"Lots 1-98 have been constructed and supplied with sewer and water risers. As a result, further connections to the sewage disposal system are possible without further construction."

Oct. 15, 1996

Notice of Final Order in Review Hearing (Cause # SE-30-95)

Administrative Law Judge Jill S Frantz ruled among other things "That Petitioner Carolyn Stone testified that there were 37 building lots, which is at least 10 more lots than were approved." and "That Petitioners (Stones) did not dispute the fact that they did not seek approval for the changes they made in the original approved plans, and in fact, admitted that many of the Respondent's (ISBH) documented violations, changes, alterations to the plans or additions were effected."

Furthermore, "That Respondent (ISBH) presented unrefuted evidence as to Petitioner's (Stones) failure to abide by the conditions set out in the permit and the law governing residential and commercial on-site wastewater disposal."

"the Administrative Law Judge hereby recommend that the Petitioner's Approval GS-4967, dated August 7, 1989, be REVOKED"

Aug. 28, 2000

Clark County Health Department Letter to Mr. Stone

Please see attached letter in its entirety on the following page.

Sept. 4, 2000

Courier-Journal Newspaper Article

Headline - "River's Edge lacks sewage system permit"

Excerpts - "The county health department had issued a permit for the septic system after the state issued its permit in 1989. But then the state revoked its permit in 1995 because the septic system wasn't built as proposed.

"No subsequent approval was ever given."

"Carolyn Stone, who developed the property with her husband, David, said she expects a letter soon from the state health department stating that the septic system is adequate."

"The sewer system is a Cadillac," she said."

"The original permit was revoked, she said, because a well and a mound were each built within 20 feet of where they were marked on the original plans submitted to the state."

"Stone said new plans were sent to the state but never approved."

"They dropped the ball," she said, although she acknowledged that she probably should have been more forceful on the issue."

"She said she spoke to the state health department last week and expects a letter indicating that there are no problems with the septic system as constructed - although she said she was warned that an actual permit is unlikely."

Sept. 12, 2000

ISBH Letter to Mr. David Stone

"We have reviewed the information submitted, including the as built plans, since the revocation of septic system on February 28, 1995. Plans and specifications were changed from the originally approved plans without approval from our office."

"(77 sites now in the as built campground area from 76 sites and 51 lots now in the as built residential area from 27 lots). The usage within the campground area changed from sewerer RV sites to residential lots."

Letter then goes into great detail on what must be done including:

- "One additional mound must be added to the existing cluster of two mounds to meet the new design wastewater load for the combination campground/residential cluster system."
- Commenting on the "subdivision residential cluster system" the following is stated: "Since there is only one mound that is built out of a possible four mounds for this residential cluster system, the existing mound has a capability of handling 3,150 GPD for a maximum of 26 bedrooms at 120 GPD per bedroom or 13 homes with two bedrooms each."
- "must go through the Office of Consumer Council and the Indiana Utility Regulatory Commission to become a utility since you are selling water to the customers" and "since you have retained ownership of the septic cluster systems".

Oct. 25, 2000

Fax to Mr. Ed Miller (Engineer at ISBH) from Carolyn Stone

"We have engaged an attorney to represent us to the Utility Regulatory Commission to become a utility."

"We do not know, as of this date, what FEMA and DNR has decided about these mobile homes."

"Before we make any drastic changes in our system and spend more money than we have to, we will await their final ruling."

Feb. 5, 2003

**IURC Approval of Petition for a Certificate of Territorial
Authority to provide Sewage Service (CTA) Cause # 42234**

A public hearing was convened on December 19, 2002

"Petitioner's evidence consisted of testimony and exhibits from its witness, Carolyn Stone, as well as an Affiliated Interest Contract demonstrating that Petitioner had contracted with C & D General Contractors, Inc. for management of its water and sewer facilities."

Section 5 of approval is "Lawful Power and Authority to Apply for CTA and to Operate a Sewage Disposal Service."

"Petitioner's witness, Carolyn Stone, testified...that approval from the Indiana State Board of Health is the only technical approval necessary for the operation of the sewer system. An approval letter from the Indiana State Board of Health was submitted as Petitioner's Exhibit No.12. Therefore, the Commission finds that Petitioner possesses the requisite lawful power and authority to provide utility service in the CTA Area." Petitioner's Exhibit No. 12 was the REVOKED August 7, 1989 permit. *Fraud? Perjury?*

Unknown Exact
Date, however, it
must have been
during or after
2004

Indiana Capacity Center River's Edge Cluster System Site Report

"Is flow monitoring being conducted? No"

"Comments: Flow monitoring is recommended. The (IURC) may request this type of record keeping in the future. The flow monitoring could prove to the ISBH that the cluster system is functioning properly and is not exceeding its original permitted daily design flow."

"Concerns: Without flow monitoring, the Utility has no idea if the cluster system is being hydraulically overloaded which can cause premature system failure. Monitoring would allow the Utility to decide whether or not inflow/infiltration problems exist and to take corrective action prior to failure."

"Total Design Daily Flow: 15,700 GPD"

"Comments: According to the ISBH in a letter dated September 12, 2000, the River's Edge development is larger than proposed when the onsite cluster system was approved on August 7, 1989. As a result the cluster capacity is too small for the current development."

"Concerns: At the time of the two site visits, the cluster system appeared to be functioning adequately; however, if the cluster system is undersized, the system could fail due to hydraulic overloading in the near future. The ISBH has advised the ownership to increase the size of the entire cluster system to adequately handle the potential flows. The additions to the cluster system had not been completed by the time of the last visit."

"Mr. Stone stated that the cluster system is very economical to operate."

"The ICCMODS staff first visited the River's Edge development in the summer of 2003. An inspection of the treatment and dispersal site showed only 2 elevated sand mounds."

"As ICCMODS staff discussed the operation and maintenance with Mr. Stone, the letter requiring cluster system modifications was brought up. Mr. Stone stated that an as-built set of plans were being completed by Bob Isgrigg & Associates and will be forwarded on to the ISBH for their approval. Any cluster system modifications that the ISBH requires will be made to remain in compliance with the ISBH and IURC regulations."

"When asked, Mr. Stone stated that the River's Edge cluster system was very easy to operate and maintain. He also commented that the system was *very economical* to operate and maintain."

Based on the records and facts at hand, the following conclusions can be made:

- The Sewer Septic System as originally stated would be built as having 4 mounds for the Subdivision System and 2 mounds for the Campground System in Phase 1 with an additional 2 mounds being added in Phase 2 has never been completed.
- The originally submitted size and use of the development which capacities were initially computed has changed and subsequently increased.
- The original developers (Mr. and Mrs. Stone) continue to market, rent, and sell lots which create additional flow into the mound cluster system.
- Mr. and Mrs. Stone, as the Developers, have repeatedly been advised, instructed, and mandated by numerous governmental and judicial agencies of what they need to do in order to be in compliance with rules, regulations, and law. However, they have made or taken little or no actions to do so.
- Mr. and Mrs. Stone have repeatedly spoke, written, and submitted misleading statements of fact up to and including fraudulent submission of testimony and evidence.
- Any further construction of the Sewer Septic System **should not** be considered expansion of the system by the Utility, but rather attempts to complete the original system by the Developer as required. Therefore, any costs associated with the completion of the system should be the burden of the Developer and not the burden of Lot Owners that were marketed and sold a "Cadillac" sewer system. The Lot Owners bought and paid for the whole car already! Now we would like to have it.

10/04/06 WED 15:23 FAX 5026347486

SCI CRITTENDEN LAB

003

August 8, 2006

Consumer Affairs Division
Indiana Utility Regulatory Commission
Indiana Government Center South
302 West Washington Street, Suite E-306
Indianapolis, Indiana 46204

To Whom It May Concern:

Subject: Official Complaint against River's Edge Utility, Inc.
Refusal to Supply Water and Sewer Service

I am writing this as an official complaint on River's Edge Utility, Inc. refusal to supply water and sewer to us when we elevate a construction house on our property located at 4814 Rivers Edge Drive, Charlestown, Indiana (Lot #76).

We have lived here in a mobile home since June 2001. We have been provided water and sewer service year round. We currently have a two-bedroom, two-bath mobile home. We are building a two-bedroom; two-bath home elevated 16 feet due to being in a floodway.

River's Edge Utility, Inc. states that their water and sewer facilities will not have sufficient capacity to serve us. We will not be using any more water and sewer after we build up than what we are using now. The whole concern is that the owners of this utility company, which was the developer of this community we live in, does not want homes elevated to supposedly block their view of the Ohio River. There has been one home already elevated in this community two or three years ago and the utility has provided and is providing them service.

I have enclosed two letters dated July 5, 2006, one addressed to River's Edge Homeowners Association and one to Clark County Planning, Zoning, and Building Commission, from the River's Edge Utility, Inc. attorney. They both stress this community is a campground.

Please find attached copy of letter from Clark County Planning, Zoning, and Building Commission showing approval of petition for a variance for a private development for mobile homes, which makes this a residential area, not a "Campground". This was effective November 18, 1998.

Also, please note that the utility company attorney's letter should not have been addressed to our association, but to individual property owners. Our association does not have anything to do with the operation of this utility. The association's responsibilities are only to provide maintenance of roads, lighting, appearance of upkeep of properties in the community, and oversee that property owners abide by the association's Declaration and By-Laws.

7006 0100 0000 2135 3761

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OFFICIAL USE

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| Restricted Delivery Fee (Endorsement Required) | \$ 0.00 |
| Total Postage & Fees | \$ 7.45 |

Sent To: CONSUMER AFFAIRS DIVISION
INDIANA UTILITY REGULATORY COMMISSION
INDIANA GOVERNMENT CENTER SOUTH
302 WEST WASHINGTON STREET, SUITE E-306
INDIANAPOLIS, INDIANA 46204

Postmark: AUG 1 0 22 2006
001 HANFORD STATION LOUISVILLE KY

PS Form 3800, June 2002 See Reverse for Instructions

10/04/06 WED 15:24 FAX 5026347486

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004

August 8, 2006
Consumer Affairs Division
Indiana Utility Regulatory Commission
Page Two

Please note that it is stated in our River's Edge Homeowner's Association, Inc. Declaration signed by David and Carolyn Stone as "Declarant" The River's Edge Community, Inc. and recorded in the Clark County Recorder's office October 9, 2002 under Article V, Section 8, "Utilities: The Utility Corporation, for each lot owned within the properties, hereby covenants to each owner of any lot by acceptance of a deed therefore, and/or a duly executed real estate contract for the purchase of said lot (whether or not it shall be so expressed in such deed or real estate contract) to provide utilities to the lot owner. Said utilities consist of water and septic/sewer service with usage restrictions mandated by the Indian State Board of Health."

When Carolyn Stone on behalf of Rivers Edge Community, Inc. petitioned and was granted by IURC permanent certificate of territorial authority to provide sewage service, Cause No. 42234 dated December 2002, Carolyn Stone was asked at a Prefiled Direct Testimony: "In your opinion, is the granting of a CTA to Rivers Edge Utility, Inc. required by the public convenience and necessity? Answer, "Yes, in my opinion it is. The public convenience and necessity require that Rivers Edge Utility, Inc. serve Rivers Edge Community in the same manner that it has been served for the prior 13 years."


The Consumer Affairs Division of the Indiana Utility Regulatory Commission has the responsibility to me as a property owner in Rivers Edge Community to see that the River's Edge Utility, Inc. will reconnect and provide me water and sewer service when construction of our home has been completed.

I have received a Certificate of Approval for Construction in a floodway for an elevated home from the State of Indiana Department of Natural Resources and also a Building and Electric permit from the Clark County Planning and Zoning Commission of Indiana. My husband and I plan to start construction first week in September.

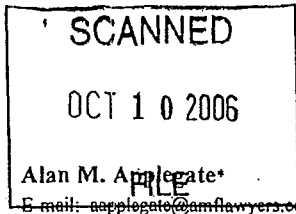
Please review information stated above and attachments. I am requesting a written response from your department stating that the River's Edge Utility, Inc. legally has to provide us with water and sewer connection and service after construction of our home. I need your written response within 14 days as time is of the essence.

If I do not here a reply from you by August 27, 2006 I have no recourse but to contact my attorney to see what action can be taken with the IURC and the River's Edge Utility, Inc.

Respectfully,


Linda Fugit

Attachments: Letters from attorney J. Christopher Janak of Bose McKinney & Evans LLP
Addressed to River's Edge Homeowners Association and to Clark County
Planning, Zoning, and Building Commission



Applegate & Fifer
Attorneys at Law

428 Meigs Ave.
Post Office Box 1418
Jeffersonville, Indiana 47131-1418
Telephone: (812) 284-9499
Facsimile: (812) 282-7199

SAB ATTACHMENT 13
CAUSE NO. 43115
PAGE 1 OF 3

C. Gregory Fifer
E-mail: ~~gfifer@amflawyers.com~~

Of Counsel:
Ronald R. Fifer

*Also licensed in Kentucky and Florida

October 9, 2006

Via Overnight Mail,
Receipt Requested

Mr. Ronald Keen
Consumer Service Director
Indiana Office of Utility
Consumer Counselor
100 N. Senate Ave., Room N501
Indianapolis, IN 46204-2215

RE: Second Official Complaint and First Requested Ruling on Sewer and Water
Services for Jim and Linda Fugit

Dear Mr. Keen:

This firm represents James and Linda Fugit, the owners of real property known as Lot #76, River's Edge Subdivision, having an address of 4814 Rivers Edge Drive, Charlestown, Indiana (the "Property"). The Property is currently served by River's Edge Utility, Inc. and has been served for many years. This letter is intended to constitute the second official complaint of James and Linda Fugit against River's Edge Utility, Inc. due to its threatened refusal to supply sewer and water utilities when their new house is constructed on the Property.

Our clients first made a complaint against River's Edge Utility, Inc. in a letter from Linda Fugit dated August 8, 2006 to Consumer Affairs Division of Indiana Utility Regulatory Commission. This letter, along with two letters from River's Edge Utility, Inc.'s attorney dated July 5, 2006, is enclosed herewith. Since Mrs. Fugit did not receive a response to her August 8, 2006, letter, the Fugits retained this firm to assist them in response to the threatened disconnection of their utility service.

My clients recently received from the River's Edge Homeowners Association (of which our clients are members) a copy of a letter from attorney for River's Edge Utility, Inc., dated September 27, 2006, addressed to Jim and Linda Fugit. The Fugits never actually received the original letter. This letter indicates that River's Edge Utility, Inc. will not provide sanitary sewer service to our client's property if they proceed with the construction of their proposed elevated two bathroom residence.

02 OCT 10 11:42*

Indiana Office of Utility
Consumer Counselor
October 9, 2006
Page 2 of 3

The enclosed September 27, 2006, letter indicates that River's Edge Utility, Inc. will disconnect services to the Property because a permanent dwelling "generally produce at least three times the wastewater flow as do mobile homes." Therefore, this threatened increase in wastewater flow will "likely overload the Mounds System" creating a condition dangerous or hazardous to life, physical safety or property. This absurd allegation is contrary to fact and the obligation of River's Edge Utility, Inc. to provide sewer and water utilities to our client.

Our clients have been lawfully residing in a two bedroom mobile home (pursuant to a variance duly issued by the Clark County Plan Commission in 1998) without damage to the Mounds System serving the subdivision. In fact, they were customers when the utility obtained its CTA. Further, the Indiana Department of Health ("IDOH") makes no distinction between a mobile home and a "stick-built" home when determining water and sewer usage. While IDOH does distinguish between the sewer impacts of recreational vehicles versus residential lots, there is no distinction between mobile homes and attached structures having the same number of bathrooms.

We believe that that September 27, 2006, letter threatening disconnection was sent for two reasons not cited in said letter. The first reason is to limit the River's Edge Utility, Inc.'s obligation to make corrections to the current Mounds System so as to comply with the original construction plans of the Mounds System approved by the IDOH. Letters from the IDOH to River's Edge Utility, Inc. explaining the utilities failures and requirements are enclosed herewith. The Indiana Utility Regulatory Commission has currently scheduled a prehearing conference to investigate River's Edge Utility, Inc. continued lawful authority to operate the Mounds System under its existing CTA. A copy of the investigative determination is enclosed herewith.

The second reason for the letter is that we believe the owners of River's Edge Utility, Inc. are using the utility to control the type of development occurring within River's Edge Subdivision. The owners of the utility likewise own many unsold lots within the subdivision. Our client's lawful construction of an elevated structure would limit the view of the Ohio River and possibly negatively impact the marketability of remaining lots owned by the owners of the utility. This motive is indicated by the enclosed letters to the local plan commission and County commissioner's threatening a lawsuit if building permits are issued. River's Edge Utility, Inc. should not be allowed to do the bidding for the developer of River's Edge Subdivision. The threatened actions of River's Edge Utility, Inc. effectively treat customers of the utility differently without sufficient cause.

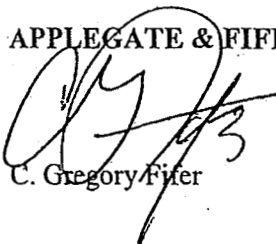
The Indiana Office of Utility Consumer Counselor (OUCC) is the state agency that represents the interests of all Indiana utility ratepayers, consumers, and the public in matters related to the provision of utility services. Toward the end, the OUCC is active in court and administrative proceedings before State and Federal regulatory agencies. In such capacity, we request on behalf our client that you investigate and determine whether River's Edge Utility, Inc. may disconnect our client from sewer service merely because they construct a permanent elevated residence in lieu of their existing residential mobile home.

Indiana Office of Utility
Consumer Counselor
October 9, 2006
Page 3 of 3

We need an expedient response as our clients are breaking ground this week. We would request a response prior to October 16, 2006, so that our clients may determine whether they need to attend the investigatory hearing in front of the Indiana Utility Regulatory Commission on October 16, 2006.

Very Truly Yours,

APPLEGATE & FIFER



C. Gregory Fifer

AMA

Enclosure

Cc: Mr. and Mrs. James Fugit
(via first class mail)
Mr. Scott Bell, IURC Consumer Affairs Division
(via certified mail, return receipt requested)
Mr. Alex C. Intermill
(via first class mail)

10/04/06 WED 15:32 FAX 5026347486

SCI CRITTENDEN LAB

013

WE NEVER RECEIVED A CERTIFIED
LETTER. THIS COPY CAME
FROM ASSOCIATION.

**BOSE
McKINNEY
& EVANS LLP**

ATTORNEYS AT LAW

Alex C. Intermill

Downtown Office

Direct Dial (317) 684-5302

Direct Fax (317) 223-0302

E-Mail: AIntermill@boselaw.com

September 27, 2006

Via Certified Mail

Jim and Linda Fugit
4814 River's Edge Drive
Charlestown, IN 47111

Re: Notice of Disconnection

Dear Mr. and Mrs. Fugit:

Our firm represents River's Edge Utility, Inc. ("River's Edge"). It is our understanding that you intend to construct a "stick-built" home in the campground area ("Campground") of the River's Edge development. Lots in the Campground were intended and sold for seasonal RV and camping use only. Currently, River's Edge provides sanitary sewer and water service to the lots in the Campground. River's Edge utilizes a mounds system of waste water treatment ("Mounds System"). The Mounds System was designed with sufficient capacity to receive and treat a maximum wastewater flow from the Campground attributable only to seasonal RV and camping use. The Mounds System has been able to effectively handle wastewater from temporary mobile homes that have been placed in the Campground; however, permanent structures generally produce at least three times the wastewater flow as do mobile homes. River's Edge does not have the capacity to handle the increase in flow that would result from permanent dwellings in the Campground. Therefore, should you construct your proposed "stick-built" home in the Campground, River's Edge cannot and will not provide sanitary sewer service to your property.

Pursuant to 170 IAC 8.5-2-4(a)(1)(A), River's Edge may disconnect services to your lot without your request or prior notice to you if "a condition dangerous or hazardous to life, physical safety or property exists." If the Mounds System is overloaded, it will not effectively treat the wastewater thereby creating a dangerous and hazardous condition to people and property in the area. A "stick-built" home, or other permanent dwelling, in the Campground, would produce an increase in wastewater flow that will likely overload the Mounds System creating a condition contemplated by the above-cited regulation. Accordingly, should you proceed with the construction of a "stick-built" home, or other permanent dwelling, in the Campground, River's Edge will disconnect your sanitary sewer service and will not permit you to connect such a structure to River's Edge's sanitary sewer service.

10/04/06 WED 15:33 FAX 5026347486

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ATTORNEYS AT LAW

Jim and Linda Fugit
September 27, 2006
Page 2

To the extent you will be installing a septic system for your new home, please contact River's Edge so that it may disconnect your lot immediately. Should you have any questions, please do not hesitate to contact me.

Yours very truly,



Alex C. Intermill

ACI/dgg

cc: Mark Applegate, Esq.
River's Edge Utility, Inc.
J. Christopher Janak, Esq.
River's Edge Homeowners Association
Clark County Planning, Zoning, and Building Commission
Clark County Board of Commissioners

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10/04/06 WED 15:34 FAX 5026347486

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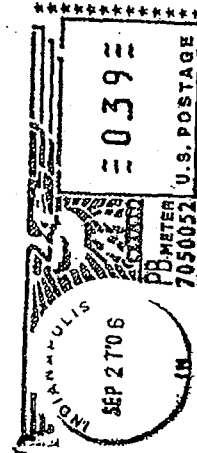
SAB ATTACHMENT 14
CAUSE NO. 43115
PAGE 3 OF 3

015

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& EVANS LLP**

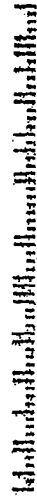
ATTORNEYS AT LAW

2700 First Indiana Plaza
135 North Pennsylvania Street
Indianapolis, Indiana 46204



River's Edge Homeowners Association
P.O. Box 12
Charlestown, IN 47111

47111-0012-12 8001



RIVER'S EDGE UTILITY, INC
4513 STONEVIEW DRIVE
CHARLESTOWN, IN. 47111
812 293 4414

SAB ATTACHMENT 15
CAUSE NO. 43115
PAGE 1 OF 2

River's Edge Utility Customers:

5/27/2006

As a customer of River's Edge Utility, you are being informed that permanent home building approvals, in the River's Edge Community, are being sought by a number of individuals. The proposed structures may be built in the area now commonly referred to as the "campground". As of this date, River's Edge Utility assumes that building permits will be issued.

River's Edge Utility admonished the County, on several prior occasions, that building of permanent structures in the campground would, in their opinion, lay the foundation for eventual overload to the sand mound system. Initially they refused to issue "building permits" but inexplicably changed their mind.

Unfortunately the lot owners seeking to build permanent homes have the chance to move forward but without any guarantee, by the County or River's Edge Utility, that water and sewer service will be provided to the homes. Although participants subsequently ignored the concerns of the Utility regarding changes to the campground area from "original use and intent" to "non-conforming use", the supposition is that the "deviation of intent and use" was deemed unimportant by all of the above. The Utility, thus far, has had no communication, nor has it been asked for input with regard to the drastic change that seems likely to be implemented in the River's Edge development.

The River's Edge Community campground was designed for part time camping, summer use only. The elevated sand mounds were built to accommodate just that. Singlewide mobile homes were never excluded from being placed on the lots, and all initial buyers were informed that the camp lots were not designed to be permanent residence lots.

Although River's Edge Utility provides water and sewer to the lots where the permanent homes could be placed, the provision of services and the inability to meet demands should have been studied vigorously before such a change was implemented. Any utility, whether large or small, should be involved in strategic planning for new housing developments especially if a former "small use" campground is changed to a "full use" residential development.

The Utility maintains that expansion to the infrastructure to accommodate a multitude of homes would be difficult, if not impossible, and could jeopardize

the provision of water and sewer to all customers. If failure of the system proves to be a reality, as the Utility believes will happen at some point, all customers of River's Edge Utility will be affected.

Customers of River's Edge Utility may choose to contact the Clark County Commissioners, Health Department, and Planning and Zoning Commission, to express their views on permitting this development and the potential impact it may have with regard to water and sewer service they now have, and as well, their concerns with regard to future assessments and rate increases which will be borne by all consumers if the system is compromised by building of homes in the campground area.

River's Edge Utility is in receipt of the "Amended Declaration of Covenants, Conditions and Restrictions for the River's Edge Homeowner's Association". Article X, Section 20 of that document which reads:

All valid laws, zoning ordinances and regulations of all governmental bodies must be followed. The county, the State of Indiana, the United States of America, the Indiana Department of Natural Resources, FEMA, and the Indiana State Board of Health must approve any permanent construction or elevation of any buildings.

River's Edge Utility has received no notification from any of the above.

This informational letter is being sent to all customers of River's Edge Utility, Inc., to inform them that the planned permanent home subdivision is considered to be a "non-conforming use" by River's Edge Utility and may cause failure.

Sincerely,

River's Edge Utility, Inc.

cc: Indiana State Board of Health
Indiana Department of Environmental Management
Indiana Utility Regulatory Commission
Clark County Health Department
Clark County Planning and Zoning
David Nachand Attorney for County
Clark County Commissioners Haire, Meyer and Guthrie

**BOSE
McKINNEY
& EVANS LLP**

ATTORNEYS AT LAW

July 5, 2006

J. Christopher Janak

Downtown Office

Direct Dial (317) 684-5249

Direct Fax (317) 223-0249

E-Mail: jjanak@boselaw.com

VIA REGULAR & CERTIFIED MAIL

River's Edge Homeowners Association
P.O. Box 12
Charlestown, IN 47111

Re: Notice Regarding Sewer and Water Service for Proposed Homes
in Campground Area

Dear River's Edge Homeowners Association:

I am writing on behalf of River's Edge Utility, Inc. ("Utility") regarding the availability of sewer and water service for the proposed homes in the campground area ("Campground") of the River's Edge development. As you know, the lots in the Campground were sold for primarily seasonal RV and camping use. It is my understanding that the homeowners association for this area ("Association") has now voted to expand the use of the lots in the Campground by constructing "stick-built" homes. Based on my conversations with the Utility, the Association is moving forward with construction of the new homes without obtaining the approval of or consent from the Utility.

As you may know, the Utility has obtained permits or certificates from the State of Indiana authorizing the Utility to construct and operate sewer and water facilities to serve a select group of customers in and around the Campground. When obtaining and receiving the necessary approvals, the Utility agreed to serve, and set aside sufficient capacity for, the sewer and water flows anticipated from the Campground. Based on Indiana law (i.e. 327 IAC 3-6-11), each lot within the Campground had an anticipated daily sewer (and water) flow of one hundred (100) gallons. If, however, the Association were to move forward with its plans to construct stick-built homes on the Campground lots, the daily usage would increase by more than 300% to three hundred ten (310) gallons per day.

While the capacity of the Utility's water facilities is certainly a problem, the glaring concern is the capacity of the sewage disposal system. The Utility provides sewage treatment service by operating a mound system. As the Indiana State Board of Health will attest, the Utility's mound system does not have capacity to treat the additional sewage that will be generated by the proposed homes and, unfortunately, there is no additional ground upon which to construct the necessary "mounds" or expanded

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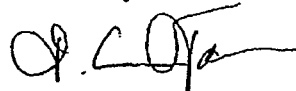
Letter to River's Edge Homeowners Association
July 5, 2006
Page 2 of 2

facilities. Please let this letter serve as notice that with its existing sewer and water facilities the Utility does not have capacity for, and cannot provide service to, the proposed homes in the Campground.

Due to the Utility's lack of capacity to serve the 300% increase in flows from the proposed homes, any connection of the proposed homes would overload the Utility's sewer and water systems and create a condition that is dangerous and hazardous to life, physical safety, and the environment. Based on this very real threat, the Utility will not allow you to connect the proposed homes to its sewer and water systems without an agreement from the Association and its members to pay all the costs of constructing additional water and wastewater facilities with sufficient capacity to serve the new expanded use. Alternatively, the Utility is willing to release the Association and its individual members from the Utility's Certificate of Territorial Authority ("CTA") so that the Association can construct its own sewer and water facilities or seek sewer and water service from another provider.

Please contact me at your earliest convenience to discuss these options. I look forward to hearing from you.

Sincerely,



J. Christopher Janak

JCJ/lab

**BOSE
McKINNEY
& EVANS LLP**

ATTORNEYS AT LAW

J. Christopher Janak

Downtown Office

Direct Dial (317) 684-5249

Direct Fax (317) 223-0249

E-Mail: jjanak@boselaw.com

July 5, 2006

REGULAR & CERTIFIED MAIL

Clark County Planning, Zoning, and Building Commission
Ramona Bagshaw, Executive Director
Tony Semonès Enforcement Officer
501 East Court Avenue
City-County Building Room 300
Jeffersonville, IN 47130

Clark County Board of Commissioners
Vicki Kent Haire
Ralph Guthrie
Edward M. Meyer
501 East Court Avenue
City-County Building Room 306
Jeffersonville, IN 47130

Re: Notice of Potential Tort Claim

Dear Clark County Official:

Attached please find a copy of the letter I sent on behalf of my client, River's Edge Utility, Inc. ("Utility"), to the owners of lots in the campground area of the River's Edge development. As you may know, the campground lots were sold and purchased with the understanding that such lots would be used for only seasonal camping and RV purposes. In addition, the sewer and water facilities have been constructed with sufficient capacity only to serve that limited use.

Despite the lack of adequate sewer and water capacity for the proposed homes, it is my understanding that Clark County is moving forward with issuing building permits without the approval of or consent from my client. Please let this letter (as well as the attachment here) serve as notice that if the County proceeds to issue permits allowing homes to be constructed in the campground area, there will likely be insufficient sewer and water capacity to handle the needs of the proposed homes. To the extent damages arise out of the County's actions (i.e. fines, agreed orders, cost of expanded facilities, attorney fees, etc.), the Utility intends to hold the appropriate county officials financially responsible for their actions.

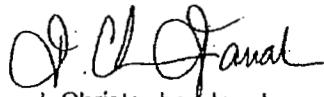
**BOSE
McKINNEY
& EVANS LLP**

ATTORNEYS AT LAW

Letter to Clark County Officials
July 5, 2006
Page 2 of 2

If the building of the new homes proceeds as planned in the campground area, the Utility will evaluate the amount of damages and forward you a formal tort claims notice detailing the same. If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,



J. Christopher Janak
Attorney for River's Edge Utility, Inc.

JCJ/lab
Enclosure
780808

cc: David Nachand
Clark County Plan Commission Attorney
City-County Building
426 East Court Avenue
Jeffersonville, IN 47130

**BOSE
McKINNEY
& EVANS LLP**

ATTORNEYS AT LAW

J. Christopher Janak

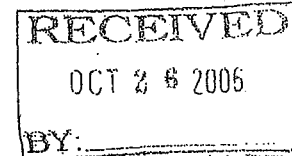
Downtown Office

Direct Dial (317) 684-5249

Direct Fax (317) 223-0249

E-Mail: jjanak@boselaw.com

October 24, 2006



Via Certified Mail & Fax

Mr. C. Gregory Fifer
Applegate & Fifer
428 Meigs Avenue
Post Office Box 1418
Jeffersonville, IN 47131-1418

Re: Mr. & Mrs. Fugit ("Fugits")- Notice of Disconnection of Utility Service

Dear Mr. Fifer:

Our client, River's Edge Utilities, Inc., has informed us that your clients, the Fugits, have begun construction of a permanent, stick-built home on their campground lot in the Campground Area of the River's Edge Development. Over the past few months, we have consistently informed your clients that the Utility does not have the capacity to provide service to the permanent structures. Allowing the Fugits or any other person in the Campground Area to build a permanent dwelling will create a condition that may overload the wastewater treatment facilities and endanger human health and the environment. In spite of the notice provided by River's Edge to the Fugits regarding the unavailability of sewer service for their prospective permanent stick-built home, the Fugits have now moved forward with construction.

I now understand that the Fugits' construction has encroached on (and may be directly on top of) River's Edge's easements and water and sewer lines. In addition, River's Edge believes your clients (and/or their agents) have tampered with the Utility's facilities. At a minimum, your clients have violated River's Edge's IURC Rules and Regulations ("IURC Rules") which state, in pertinent part:

Customer's Responsibility/Liability

The customer shall ensure that the Company's devices and easements are unobstructed and accessible at all times.

The IURC Rules authorize River's Edge to disconnect the Fugits' property, as well as remove (at the Fugits' cost) any obstruction that encroaches on River's Edge's easements and facilities. The IURC Rules specifically provide:

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McKINNEY
& EVANS LLP
ATTORNEYS AT LAW

Mr. C. Gregory Fifer
October 24, 2006
Page 2

Disregard of the above rules shall be considered fraudulent on unauthorized use of water and sewer and therefore sufficient cause for refusal or discontinuance of service without notice to the customer, pursuant to 170 IAC 6-1-16(b)(1)(c).

The IURC Rules further state:

Each lot is burdened with an easement for the maintenance repair and replacement of utility lines. If easements are obstructed, but not limited to, plantings, buildings, concrete, etc., it will be the customer's responsibility to remove those items if the Company needs to make repairs. If the customer cannot remove those items, the Company, at the customer's expense, will remove the items. The right to remove any structure so situated on easements of record without duty of replacement or reimbursement shall be the Company's right. The Company will strive to fill and level any excavation as best it can after repairs but does not have the duty to replace any item(s) on the easement which were removed. When meters are installed in a pit, the pit shall be located in a convenient and readily accessible location with no obstructions which would prohibit the Company from readily gaining access for readings.

In addition to paying the cost to remove the facilities, the Fugits will be responsible for an IURC approved \$200 fee for tampering with River's Edge facilities without River's Edge's consent.

In addition to violating the IURC Rules, the Fugits' actions most likely constitute trespass and/or a scheme to avoid been assessed for utility service which will, in turn, subject to the Fugits to treble damages, attorneys' fees, and court costs. (See Indiana Code §34-24-3-1.)

While your clients have previously questioned the authority of River's Edge to prohibit connection of the Fugits' new, expanded use, the IURC Rules say otherwise:

The Company reserves the right to prohibit any deviation of use, including but not limited to, a change from single to multi-family use and modification of camp structures on the current sewage system.

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McKINNEY
& EVANS LLP
ATTORNEYS AT LAW

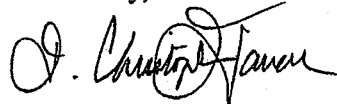
Mr. C. Gregory Fifer
October 24, 2006
Page 3

Due to the lack of capacity for the Fugits' new, expanded use, I sent a letter several months ago to your client requesting that they contact the Utility regarding options for service. To date, the only contact I have received from you is notification from the IURC that your clients have initiated an investigation of the Utility. I would note that the investigation of the Utility, if successful, would result in the potential revocation of the CTA for River's Edge. Ironically, the revocation of the Utility's CTA would result in River's Edge being legally prohibited from providing your clients with the service that they now desire.

At your earliest convenience, please contact me to discuss the options for obtaining for service from River's Edge or another source. River's Edge is committed to finding a suitable solution for the Fugits; however, it is not in a position at this point to allow connection to its system.

I look forward to your phone call.

Sincerely,



J. Christopher Janak

JCJ:lab:kd
cc: River's Edge Utility
Alex Intermill

809003_1

Applegate & Fifer

Attorneys at Law

Alan M. Applegate*

E-mail: aapplegate@amflawyers.com

428 Meigs Ave.

Post Office Box 1418

Jeffersonville, Indiana 47131-1418

Telephone: (812) 284-9499

Facsimile: (812) 282-7199

C. Gregory Fifer

E-mail: gfifer@amflawyers.com

Of Counsel:

Ronald R. Fifer

*Also licensed in Kentucky and Florida

October 26, 2006

Via Facsimile and
First Class Mail

Mr. J. Christopher Janek
Bose-McKinney & Evans LLP
2700 First Indiana Plaza
135 North Pennsylvania Street
Indianapolis, Indiana 46204

RE: Sewer and Water Services for Jim and Linda Fugit – Notice of Disconnection

Dear Mr. Janek:

As you know this firm represents James and Linda Fugit. Due to the severity of the tone and intended result of your October 24, 2006, letter, we felt compelled to respond in writing prior to contacting you by telephone so as to document our formal complaint objecting to any proposed disconnection of our client from River's Edge Utilities, Inc.'s ("River's Edge") sewer and water services and to further clear up certain inaccuracies in said letter.

It is true that your firm did send a letter to River's Edge Homeowner's Association, Inc. (the "Association") on July 5, 2006, and sent to our client a notice to disconnect on September 27, 2006, should they "proceed with a 'stick-built' home." Our client believes that this stated for threatened disconnection is arbitrary, capricious and discriminatory as applied to our client and is therefore legally invalid. Ironically, the reason for disconnection cited in the September 27, 2006, letter is substantially different than those grounds stated in your October 24, 2006, letter. These inconsistent positions have been the source of the most constant disputes between River's Edge and its customers since the late 1990's.

The only reason this situation has not come to a head earlier is due to certain threatening letters that River's Edge previously sent to the Clark County Plan Commission which had the practical effect of preventing development of the "campground" lots as well as previous State law preventing new construction within the Ohio River floodway. Now that State law allows construction within the floodway and the Clark County Plan Commission issues building permits, River's Edge has been forced to deal directly with the problems originally created by the owners of the utility when it failed to construct the mounds system in accordance with the plans and specifications submitted to ISDH at the time of their permit. The bottom line is your client

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Mr. J. Christopher Janak
October 25, 2006
Page 2 of 4

should have built additional mounds (2 mounds just for the campground lots) and otherwise followed its plans and specifications. It did not and the customers of the River's Edge have been paying for this failure ever since.

Much is made in your letters concerning the mounds system and its relative ability to handle "stick-built" homes versus "campground" lots. However, the risks to the system, as set forth in your letters are simply not applicable to our clients' situation. First, our clients are longtime residents of River's Edge subdivision and one of the eleven full time campground lot owners referenced in paragraph 2 of the order granting River's Edge its CTA, the same order which is currently under review due to your client's express misrepresentation to the IURC concerning the revocation of the Indiana State Department of Health ("ISDH") permit. At the time the CTA was granted, our clients had a two bedroom mobile home situated on their campground lot. Our clients have obtained from the Indiana Department of Natural Resources a permit to build a two bedroom residence above the ground. Contrary to the hollow distinctions between "stick-built" versus non "stick-built" residences set forth in your September 27, 2006, letter, the determination of sewer and water volume emanating from a residence is based upon the number of bedrooms of the residence. This is confirmed in your July 5, 2006, letter to the Association. The Fugits, who resided full time in a 2 bedroom residence at the time the CTA was granted, are merely replacing that 2 bedroom residence with another 2 bedroom residence.

The real reason River's Edge does not want elevated structures is clearly set forth in Mrs. Stone's September 7, 2002, email to our client. This email states in part that "if every one of the owners of camp lots got approval from DNR to do this type of structure, and if we did not object as the developer, our residential lots would never sell." A copy of this email is attached for your review. It is important to note that the email (the date of which is well in advance of River's Edge's CTA hearing) expressly states that ISDH had revoked the permit for the mounds system, the same permit River's Edge submitted as Exhibit 12 to the Indiana Utility Regulatory Commission ("IURC") as part of its CTA application.

A second reason is that River's Edge does not want to incur the expense of installing additional mounds in accordance with the plans approved by ISDH. Contrary to that portion of your July 5, 2006, letter which states that "there is no additional ground upon which to construct the necessary 'mounds' or expanded facilities," your client stated on August 28, 2002, that "[I]f we have to build another mound, we can do that but the new mound would still just be built to be in compliance with what is here now, namely, **single wide mobile homes**" (emphasis in original).

Now, since the Clark County Plan Commission has effectively stopped protecting the Stones by issuing building permits to existing customers, River's Edge is forced to hire Indianapolis counsel specializing in utility law to assist it in formulating a plan to prevent additional connections so as to further the ulterior motives of the shareholders of River's Edge. By virtue of the allegations contained in your October 24, 2006, letter, it appears that the current plan of attack is to allege a myriad of violations of the Rules and Regulations published by River's Edge as required by the IURC at the time of CTA approval.

Mr. J. Christopher Janak
October 25, 2006
Page 3 of 4

Your October 24, 2006, letter also implies this firm has ignored this issue and your letters. To the contrary, we requested the same regulations you cite in your October 24, 2006, from River's Edge in November 14, 2005, as well as the annual reports required by the CTA. A copy of this letter is enclosed. In response, we received from River's Edge's prior counsel a letter stating that the private restrictions prevented elevated residences. When we responded that private residential restrictions have nothing to do with sewer and water service, we heard nothing from the utility until your July 5, 2006, letter to the homeowner's association. To date, we have not been hired to represent the Association in connection with its relationship to River's Edge. In response, our clients first made a formal complaint against River's Edge to the Consumer Affairs Division of the IURC in a letter dated August 8, 2006. When Mrs. Fugit did not receive a response to her August 8, 2006, letter, the Fugits were forced to retain this firm to assist them in response to the threatened disconnection of their utility service.

You have obviously reviewed our October 9, 2006, letter to the IOUCC wherein many of the points set forth herein were made. Instead of responding to the complaints set forth in our correspondence, we receive the October 24, 2006, setting forth plethora of alleged violations of the Rules and Regulations promulgated by Rivers Edge which you creatively refer to as the "IURC Rules," as if the IURC promulgated and/or approved them. Before we are able to capably respond to your alleged violation of River's Edge's rules, we would request that River's Edge provide us with a map indicating the location of all easements benefiting River's Edge.

The so called IURC Rules also contain other provisions pertinent to the present situation, one of which is Article XV. This Article provides that all customer complaints shall be reviewed and handled pursuant to the IURC rules set forth in 170 IAC 6-1-17. To the extent any of the letters and documents to date are not deemed to constitute a complaint by the Fugits, this letter shall constitute a formal complaint to River's Edge pursuant to 170 IAC 6-1-17. Please advise the undersigned whether you accept service of such complaint on behalf of River's Edge or whether we need to cause a copy of this letter to be served directly to River's Edge.

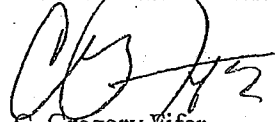
If necessary, we are prepared to assert our clients continuing rights to construct their new 2 bedroom residence and receive continuing service from the utility in a declaratory judgment action before a Clark County Court. Finally, our clients are likewise concerned that your clients will enter upon their lot and remove/destroy certain improvements that have been in place for over five years. Until all issues are resolved between our clients, we request that River's Edge refrain from such egregious conduct.

In conclusion, it appears that there are legitimate concerns of all parties involved in River's Edge subdivision. Thus, we believe it will benefit everybody if all interested parties engage in intellectually honest discussions concerning their relative motives, merits, rights and responsibilities. Hopefully, that will begin following your client's receipt and consideration of this letter.

Mr. J. Christopher Janak
October 25, 2006
Page 4 of 4

Very Truly Yours,

APPLEGATE & FIFER



C. Gregory Fifer

AMA

Enclosures

Cc: Mr. and Mrs. James Fugit
Mr. Scott Bell, IURC Consumer Affairs Division
Ms. Nicole Papariello, IURC Gas/Sewer/Water Division
Mr. Ronald Keen, IOUCC Consumer Service Director

**BOSE
McKINNEY
& EVANS LLP**

ATTORNEYS AT LAW

Alex C. Intermill

Downtown Office

Direct Dial (317) 684-5302

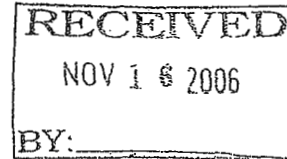
Direct Fax (317) 223-0302

E-Mail: AIntermill@boselaw.com

November 14, 2006

VIA FACSIMILE AND FIRST CLASS MAIL

Mr. C. Gregory Fifer
428 Meigs Ave.
P.O. Box 1418
Jeffersonville, Indiana 47131-1418



**Re: Sewer and Water Services for the Fugits – Notice of
Disconnection**

Dear Mr. Fifer:

I am in receipt of your letter to Chris Janak dated October 26, 2006, in which you attempt to justify at length your clients' efforts to construct a permanent structure in the Campground Area and their desire to continue receiving sewer and water service from River's Edge Utility for that structure. What you fail to acknowledge in your letter is the cumulative effect your clients' actions have had with respect to interfering with the operations of River's Edge Utility. Further, you neglect to include the fact that Indiana law provides that your clients' permanent home will produce a greater volume of sanitary wastewater, irrespective of the number of bedrooms or bathrooms, and that the River's Edge Utility mound system is not designed to handle this increase in volume.

With regard to the mound system, you have omitted any mention of the fact that the system has performed without flaw since its construction and that your clients' utility rates have remained low because River's Edge Utility has not expanded its current facilities. Indeed, there was, and is, no need to expand the facilities as the current mound system is designed to and does treat the volume of wastewater produced by its customers when they are using their respective properties for their intended use. Most importantly, it appears that you do not realize that if your clients' succeed in their current efforts against River's Edge Utility, there will be no utility from which they can receive sewer or water service.

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If your clients insist on constructing a permanent structure in the Campground Area and desire to receive sanitary sewer service from River's Edge Utility, there is only one viable option for increasing the capacity of the current system so as to handle the increased volume created by permanent structures in the Campground Area: construct a wastewater treatment plant. This is the only viable option as there is not enough area available to construct the mounds necessary to treat the increased wastewater volume.

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& EVANS LLP

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Mr. C. Gregory Fifer
November 14, 2006
Page 2

River's Edge Utility does not have the capital resources necessary to fund the construction of such a wastewater treatment plant. As your clients are the force behind the need to build such a plant, it follows that they would be responsible for the significant increase in fees to construct and operate the same. It would be wholly unfair for River's Edge Utility to pass on to other customers an expense that is derived only from the self-interested pursuits of one customer. Accordingly, should your clients wish to pursue this option and accept responsibility for the cost of construction, River's Edge Utility is willing to discuss this possibility with you.

In anticipation that your clients will be unwilling to pay for the costs of a new wastewater treatment plant, and perhaps disagree with River's Edge Utility's assessment of the situation concerning your clients building a permanent structure in the Campground Area, River's Edge Utility proposes two additional options for your clients to consider: (1) River's Edge Utility will request that the IURC revoke that portion of its CTA that currently includes the Campground Area and the Fugits will be free to install their own septic system, wells, etc.; or (2) the Fugits can purchase River's Edge Utility for its fair market value and operate the utility in any manner they see fit.

To summarize, River's Edge Utility cannot handle the increase in sanitary wastewater volume created by permanent structures in the Campground Area. River's Edge does not have sufficient funds to construct the facilities necessary to treat the increase in volume. Should the Fugits succeed in forcing River's Edge Utility to construct additional facilities to treat the increase in wastewater volume created by their permanent structure in the Campground Area, River's Edge Utility will likely cease to exist leaving the Fugits with no utility service. In an effort to avoid that scenario, River's Edge Utility poses the following three options to your clients:

- (1) Your clients pay for the costs associated with constructing the additional wastewater treatment facilities necessary to treat the increase in volume produced by their permanent home in the Campground Area;
- (2) Your clients may purchase River's Edge Utility for its fair market value and operate the same in any manner they see fit; or

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ATTORNEYS AT LAW

Mr. C. Gregory Fifer
November 14, 2006
Page 3

- (3) River's Edge Utility can pursue the revocation of the portion of its CTA that includes the Campground Area, and upon the revocation of that area, your clients would be free to seek their own sewer and water service.

Please advise which of these options your clients wish to pursue. To be clear, your clients will not be permitted to reconnect to River's Edge Utility's facilities until such time as: (a) they remove the permanent structure from their property and return their property to its intended use as an RV/mobile home site, (b) the current wastewater treatment facilities are expanded at your clients' expense, or (c) new owners of the utility permit your clients to reconnect.

Sincerely,



Alex C. Intermill

ACI/dgg

cc: River's Edge Utility
J. Christopher Janak

813357_1

Applegate & Fifer
Attorneys at Law

Alan M. Applegate*
E-mail: aapplegate@amflawyers.com

*Also licensed in Kentucky and Florida

428 Meigs Ave.
Post Office Box 1418
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Facsimile: (812) 282-7199

C. Gregory Fifer
E-mail: gfifer@amflawyers.com

Of Counsel:
Ronald R. Fifer

November 22, 2006

Via Facsimile and
First Class Mail

Mr. Alex C. Intermill
Bose McKinney & Evans LLP
2700 First Indiana Plaza
135 North Pennsylvania Street
Indianapolis, Indiana 46204

RE: Sewer and Water Services for Jim and Linda Fugit – Water Disconnection

Dear Mr. Intermill:

We are in receipt of your November 14, 2006, regard River's Edge Utilities, Inc.'s ("River's Edge") provision of sewer and water services to our clients Jim and Linda Fugit. It appears that the dispute between our respective clients has reached a new level. On November 17, 2006, our clients Jim and Linda Fugit received from River's Edge Utility, Inc. a Notice of Suspension of Service at 3:00 p.m., November 16, 2006 (the "Notice"). Since the Notice does not indicate whether you were made aware of the disconnection, we are providing you with a copy of said notice. This letter is sent for the purpose of (i) responding to your November 14, 2006, letter; (ii) objecting to the validity of some of the factual allegations contained in the Notice; (iii) notifying River's Edge of a violation of 170 IAC 6-1-17; and (iv) demanding the immediate reconnection of our client's water line improvements.

As to your firm's November 14, 2006, letter, we continue to differ with you and your client's assessment of my client's situation. First, we are not able to understand what you mean by our failure to acknowledge "the cumulative effect" our clients' actions have had "with respect to interfering with the operations of River's Edge Utility." Does a customer's requesting its sewer and water provider to follow the law and build a system in compliance with the permits granted to the provider constitute interference with the operation of a utility? We think not.

Your letter also alleges that we neglected to include the fact that Indiana law provide that our client's permanent home will produce a greater volume of sanitary wastewater, irrespective of the number of bedrooms or bathrooms. You will recall, however, that we specifically mention that our client's mobile home (not R.V.) was a two bedroom home on site in 2002 when the CTA was granted to your client. Our client is constructing a two bedroom home. The Indiana

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Mr. Alex C. Intermill
November 22, 2006
Page 2 of 3

Department of Health already has our client's mobile home usage of the property factored in its calculations. What you continue to fail to acknowledge in your correspondence is the fact that your client failed to build the system for which it received a permit and, the principals of your client have added additional lots and r.v. sites not in existence at the time of the CTA without any negative impacts to the system or allegations that the additional users would threaten the system. What is clear is that your client treats its customers in a discriminatory fashion.

We also disagree as to the options you set forth in your letter. First, there is sufficient area within the subdivision in which additional mounds may be constructed. Furthermore, if your client would have built the system in accordance with the plans and specifications approved by the State, there would be no hearing regarding the CTA and no fear of overloading the system. Again, the issues presented in your letter are merely an attempt to mask the fact that your client is not a legitimate provider of sewer and water services.

Second, the mere revocation of a CTA does not prohibit the continued provision of sewer services. Perhaps the State will mandate that your client make the improvements originally permitted? Perhaps the State will appoint a receiver to manage the plant? Perhaps the homeowner's association will take the system over? One may only wait and see what the State will do with this subdivision. One thing is clear, having the principals of your client continue to use the utility as a tool to control their fiefdom is no longer tolerable.

As to the Notice, our clients dispute the allegations in said Notice that our client excavated on the River's Edge's easement, severed piping and exposed valves. The simple truth to the matter is that when our client's contractor was preparing the footers for the proposed residence, the contractor broke our client's water line. In response, our client's contractor went to the water main situated between our client's lot and his neighbor's lot (which water main is essentially a spigot) and turned the spigot off. Much is made in the Notice regarding damaging the utility's property. However, you will note that River's Edge's Rules and Regulations provide that the customer is responsible for the customer's piping and apparatus. It is this piping that our client's contractor severed. While the contractor did physically turn the valve off at the main, we fail to see how this created a dangerous condition.

Further, the Notice relies on 170 IAC 6-1-16 to justify the actions of River's Edge. However, 170 IAC 6-1-16, as well as Section VI of the rules and regulations of River's Edge, provide that the utility may disconnect the service after seven (7) days written notice. This prior notice was not provided. Additionally, you will recall that our last correspondence to your firm constituted a formal complaint under 170 IAC 6-1-17. This section provides that a utility may not disconnect water service until 10 days following the mailing of the utility's proposed disposition of our client's complaint. Since nothing in your November 14, 2006, letter could be construed as notification regarding the disposition of our client's complaint, it appears that the utility's actions in disconnecting our client's water were retaliatory, not in compliance with the utility's own rules and regulations, or the Indiana Administrative Code, and are, therefore, illegal.

Mr. Alex C. Intermill
November 22, 2006
Page 3 of 3

As a result of the foregoing, demand is hereby made that River's Edge immediately restore our client's water service at no charge as required by 170 IAC 6-1-16(G)(1). In the event, River's Edge fails to immediately reconnect said service, our clients reserve the right to pursue all rights and remedies it may have, including bringing suit in a court of competent jurisdiction, seeking damages and an injunction against your client.

Very Truly Yours,

APPLEGATE & FIFER


C. Gregory Fifer

AMA

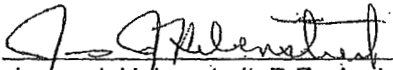
Enclosures

Cc: Mr. and Mrs. James Fugit
Ms. Ja-Deen Johnson, IURC Consumer Affairs Division
Ms. Nicole Papariello, IURC Gas/Sewer/Water Division
Mr. Daniel M. LeVay, OUCC
Mr. Scott Bell, OUCC

STATE OF INDIANA
DEPARTMENT OF NATURAL RESOURCES

CERTIFICATE OF APPROVAL
CONSTRUCTION IN A FLOODWAY

SAB ATTACHMENT 22
CAUSE NO. 43115
PAGE 1 OF 6
MAILED 10/11/06 5:00 PM

APPLICATION # : FW-23729
STREAM : Ohio River
APPLICANT : James and Linda Fugit
PO Box 388
Jeffersonville, IN 47131-0388
AGENT : Travis Kittrell
202 Ash Street
Utica, IN 47130-9408
AUTHORITY : IC 14-28-1 with 312 IAC 10
DESCRIPTION : A new 32' x 60' residential structure will be constructed on the north (right) bank of the Ohio River. The structure will consist of 1920 square feet of living space and will have 16 (8" x 16") flood vents totaling 2048 square inches. The structure will be constructed on a concrete foundation with concrete exterior walls extending from the foundation to the roofline. The living space and all electrical and utilities will be elevated 2' above the 100-year base flood elevation. Details of the project are contained in information and plans received at the Division of Water on March 10, 2006, March 29, 2006, April 6, 2006, April 17, 2006, May 11, 2006 and May 12, 2006.
LOCATION : DOWNSTREAM: 4814 Rivers Edge Drive; approximately 1500' upstream (west) of the Bull Creek confluence and 200' north of the Ohio River bank near Charlestown, Charlestown Township, Clark County
Clark Military Grant #57, Owen, KY-IN Quadrangle
UTM Coordinates: Downstream 4258194 North, 627848 East
UPSTREAM: Clark County
APPROVED BY : 
James J. Hebenstreit, P.E., Assistant Director
Division of Water
APPROVED ON : May 17, 2006

Attachments: Notice Of Right To Administrative Review
General Conditions
Special Conditions
Service List

STATE OF INDIANA
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW

APPLICATION #: FW- 23729

This signed document constitutes the issuance of a permit by the Department of Natural Resources, subject to the conditions and limitations stated on the pages entitled "General Conditions" and "Special Conditions".

The permit or any of the conditions or limitations which it contains may be appealed by applying for administrative review. Such review is governed by the Administrative Orders and Procedures Act, IC 4-21.5, and the Department's rules pertaining to adjudicative proceedings, 312 IAC 3-1.

In order to obtain a review, a written petition must be filed with the Division of Hearings within 18 days of the mailing date of this notice. The petition should be addressed to:

Mr. Stephen L. Lucas, Director
Division of Hearings
Room W272
402 West Washington Street
Indianapolis, Indiana 46204

The petition must contain specific reasons for the appeal and indicate the portion or portions of the permit to which the appeal pertains.

If an appeal is filed, the final agency determination will be made by the Natural Resources Commission following a legal proceeding conducted before an Administrative Law Judge. The Department of Natural Resources will be represented by legal counsel.

STATE OF INDIANA
DEPARTMENT OF NATURAL RESOURCES

GENERAL CONDITIONS

APPLICATION #: FW- 23729

- (1) If any archaeological artifacts or human remains are uncovered during construction, federal law and regulations (16 USC 470, et seq.; 36 CFR 800.11, et al) and State Law (IC 14-21-1) require that work must stop and that the discovery must be reported to the Division of Historic Preservation and Archaeology within 2 business days.

Division of Historic Preservation and Archaeology
Room W274
402 West Washington Street
Indianapolis, IN 46204

Telephone: (317) 232-1646; FAX: (317) 232-8036

- (2) This permit must be posted and maintained at the project site until the project is completed.
- (3) This permit does not relieve the permittee of the responsibility for obtaining additional permits, approvals, easements, etc. as required by other federal, state, or local regulatory agencies. These agencies include, but are not limited to:

| Agency | Telephone Number |
|--|----------------------------------|
| *US Army Corps of Engineers, Louisville District | (502) 315-6733 |
| Clark County Drainage Board | (812) 285-6281 |
| Indiana Department of Environmental Management | (317) 233-8488 or (800) 451-6027 |
| Local city or county planning or zoning commission | |

- (4) This permit must not be construed as a waiver of any local ordinance or other state or federal law.
- (5) This permit does not relieve the permittee of any liability for the effects which the project may have upon the safety of the life or property of others.
- (6) This permit may be revoked by the Department of Natural Resources for violation of any condition, limitation or applicable statute or rule.
- (7) This permit shall not be assignable or transferable without the prior written approval of the Department of Natural Resources. To initiate a transfer contact:

Mr. Michael W. Neyer, PE, Director
Division of Water
Room W264
402 West Washington Street
Indianapolis, IN 46204

Telephone: (317) 232-4160, Toll Free: (877) 928-3755
FAX: (317) 233-4579

- (8) The Department of Natural Resources shall have the right to enter upon the site of the permitted activity for the purpose of inspecting the authorized work.
- (9) The receipt and acceptance of this permit by the applicant or authorized agent shall be considered as acceptance of the conditions and limitations stated on the pages entitled "General Conditions" and "Special Conditions".

STATE OF INDIANA
DEPARTMENT OF NATURAL RESOURCES

SAB ATTACHMENT 22
CAUSE NO. 43115
PAGE 4 OF 6

SPECIAL CONDITIONS

APPLICATION #: FW- 23729

PERMIT VALIDITY : This permit is valid for 24 months from the "Approved On" date shown on the first page. If work has not been initiated by May 17, 2008 the permit will become void and a new permit will be required in order to continue work on the project.

This permit becomes effective 18 days after the "MAILED" date shown on the first page. If both a petition for review and a petition for a stay of effectiveness are filed before this permit becomes effective, any part of the permit that is within the scope of the petition for stay is stayed for an additional 15 days.

CONFORMANCE : Other than those measures necessary to satisfy the "General Conditions" and "Special Conditions", the project must conform to the information received by the Department of Natural Resources on: March 10, 2006, March 29, 2006, April 6, 2006, April 17, 2006, May 11, 2006, May 12, 2006 and May 15, 2006. Any deviation from the information must receive the prior written approval of the Department.

| Number | Special Condition |
|--------|---|
| (1) | revegetate all bare and disturbed areas with a mixture of grasses (excluding all varieties of tall fescue) and legumes as soon as possible upon completion |
| (2) | appropriately designed measures for controlling erosion and sediment must be implemented to prevent sediment from entering the stream or leaving the construction site; maintain these measures until construction is complete and all disturbed areas are stabilized |
| (3) | except for the material used as backfill as shown on the above referenced project plans on file at the Division of Water, place all excavated material landward of the floodway * |
| (4) | do not leave felled trees, brush, or other debris in the floodway * |
| (5) | upon completion of the project, remove all construction debris from the floodway * |
| (6) | submit an elevation certificate to the Division of Water within 90-days after construction is complete |
| (7) | do not convert the enclosure underneath the elevated structure into habitable living space |
| (8) | keep the foundation vents operational and free of obstructions at all times to allow for the passage of floodwaters as shown on the plans received at the Division of Water on April 17, 2006 |
| (9) | the proposed building must satisfy the requirements of the local floodplain management ordinance: (the 100 year flood elevation is 454.8 ft, NGVD 1929, with an associated flood protection grade of 456.8 ft, NGVD 1929); if, in order to meet those requirements, the building or site plans are modified from the material submitted for this permit, contact the Division of Water at (317) 232-4160; reference the application number and the "Technical Staff" member shown at the bottom of the "Service List" |

STATE OF INDIANA
DEPARTMENT OF NATURAL RESOURCES

SPECIAL CONDITIONS

APPLICATION #: FW- 23729

- (10) * Note: for regulatory purposes, the floodway is defined as that shown on the Ohio River Floodway Map (transferred to a large scale map by the Division of Water), (dated 2001-2002) based on the U.S. Army Corps of Engineers Floodway Sensitivity Study, copy enclosed

STATE OF INDIANA
DEPARTMENT OF NATURAL RESOURCES

SAB ATTACHMENT 22
CAUSE NO: 43115
PAGE 6 OF 6

SERVICE LIST

APPLICATION #: FW- 23729

James and Linda Fugit
PO Box 388
Jeffersonville, IN 47131-0388

Travis Kiltrell
202 Ash Street
Utica, IN 47130-9408

*US Army Corps of Engineers, Louisville, District
Jim Townsend
Regulatory Functions Branch
PO Box 59
Louisville, KY 40201-0059

Clark County Drainage Board
County Surveyor
City County Building, Room 310
501 East Court Avenue
Jeffersonville, IN 47130-4029

Debbie Smith
Floodplain Management Section
Division of Water
Indianapolis, IN 46204-2641

*Indiana Department of Natural Resources
South Region Headquarters Dist 8
Division of Law Enforcement
4850 South State Road 446
Bloomington, IN 47401-9165

Ms. Ramona Bagshaw
Clark County Plan Commission
City-County Building - Room 300
Jeffersonville, IN 47130

Charlestown Plan Commission
City Hall
304 Main Cross
Charlestown, IN 47111-1230

Clark County Soil and Water Conservation District
9608 Highway 62
Charlestown, IN 47111-9640

Staff Assignment:

| | |
|----------------|------------------------|
| Administrative | : Darlene Simpson, CFM |
| Technical | : Darlene Simpson, CFM |
| Environmental | : Christie L. Stanifer |

LOCATION IMPROVEMENT PERM...

Clark County Planning and Zoning Commission
Room 416 - 501 East Court Avenue Jeffersonville, IN 47130
812-285-6287

Application Number: 14077

Owner James Fugit
Contractor Owner
Address 4814 River's Edge Drive Charlestown, Indiana 47111
Directions _____
Comments _____

Township Charlestown Section 58 Proposed Use Dwelling
Application Date 8/3/2006 Zoning A-1 Lot Number _____

| Permit Number | Permit Type | Work Being Done |
|----------------|-------------|-----------------------------|
| P 10099 | Plumbing | 2 Baths & Kitchen |
| H 10607 | HVAC | New Residential - (Heating) |
| E 18944 | Electric | Residential |
| <u>B 30447</u> | Building | New Residential Structure |

This Permit is subject to the following:

- 1 Any and all easements, deed restrictions, zoning regulations, and subdivision restrictions applicable to the property.
- 2 Rules and restrictions of the Clark County Board of Health
- 3 Availability of Public Services
- 4 All applicable Flood Plain Ordinances including Federal and State guidelines pertaining to the designated Flood Hazard Area

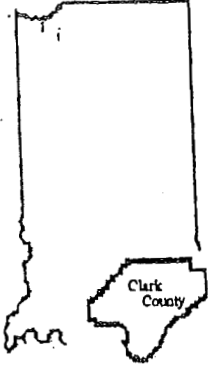
THIS PERMIT IS VALID FOR ONE(1) YEAR FROM THE DATE OF ISSUE

This license is a permit to do the above described work according to the application, plans, and specifications on file in this office.

POST THIS PERMIT IN A CONSPICUOUS PLACE ON THE JOB SITE

Approved by





Clark County Planning, Zoning, and Building Commission

501 East Court Avenue
City-County Building Room 300
Jeffersonville, IN 47130
(812) 285-6287

November 19, 1998

Mr. & Mrs. David Stone
The River's Edge Community, Inc.
4513 Stoneview Drive
Charlestown, IN 47111

Dear Mr. & Mrs. Stone:

This is to advise you that your petition for a variance was approved by the Clark County Board of Zoning Appeals at its regular meeting on November 18, 1998.

The petition was approved with the attached findings of fact and conditions.

If you need further information on how to proceed from here, please don't hesitate to contact this office.

Sincerely,

A handwritten signature in cursive script, which appears to read "Ramona Bagshaw", is written over the typed name.

Ramona A. Bagshaw
Executive Director

NO. 54/1998

RE: The Green's Edge
Community


BOARD OF ZONING APPEALS
CLARK COUNTY, INDIANA

APPROVAL OF APPLICATION FOR FLOOD PLAIN VARIANCE
AND FINDINGS OF FACT

The Flood Plain Variance above-referenced is hereby granted, subject to conditions stated, if any, and the Board finds:

1. A good and sufficient cause exists for the requested variance.
 - (a) The development was approved by Administrative Law Judge Tim Rider on January 16, 1992.
 - (b) The development may be characterized as a non-conforming use which is allowed
2. The strict application of the terms of this ordinance will constitute an exceptional hardship to the applicant.
 - (a) Developer has large investment in development
 - (b) Property cannot be used for other purpose.
3. Granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public or conflict with existing laws and ordinances.
 - (a) Development previously approved
 - (b) _____
4. Conditions imposed upon grant of Variance: The variance is permanent - will not expire. Further reasons for variance explained in attorney's October 16, 1998 letter to DNR which is incorporated into findings by reference.
Dated this 18 day of November, 1998.

CLARK COUNTY BOARD OF ZONING APPEALS

by 
President

CLARK COUNTY BOARD OF ZONING APPEALS

LEGAL NOTICE

Notice is hereby given that The River's Edge Community, Inc.
_____, has filed a petition with
the Clark County Board of Zoning Appeals _____, requesting
a blanket flood plain variance, to last indefinitely, for a
private development for mobile homes.
_____ concerning the following described real estate in Clark County,
Indiana, to-wit:

The street address of the property (or general geographic
area) which is the subject of the petition is Charlestown
Township, 4513 Stoneview Drive, Charlestown, IN _____.

All persons are hereby notified that a Public Hearing will be held on Wednesday, November 18, 19 98, at 6:00 P.M. in the Conference Room, 3rd Floor, City-County Building, Jeffersonville, Indiana.

A copy of the petition is on file at the office of the Clark County Board of Zoning Appeals, 3rd Floor, City-County Building, Jeffersonville, Indiana. Written objections that are filed prior to the hearing with the administrative assistant will be considered. Oral comments will be heard at the Public Hearing. The hearing may be continued from time to time as found necessary.

Dated this 19th day of October, 19 98.

Timothy Tillett
President, CLARK COUNTY BOARD
OF ZONING APPEALS

To be in paper Saturday, November 7, 19 98.

Being part of Grants 37 and 38 of the Illinois Grant
Clark County, Indiana, more particularly described as fol-
lows:

Beginning at a stone set at the westerly corner of said
Grant No. 38; thence with the line dividing said Grants 37
and 38, South 42° 15' 28" East 3200.10 feet more or less to
a redbud tree on a large rock on top of a bluff, said tree
being the TRUE POINT OF BEGINNING; thence continuing with
said dividing line South 42° 15' 28" East 391.36 feet to a
point; thence leaving said dividing line on a line bearing
North 47° 30' 31" East 434.20 feet to a point; thence South
26° 25' 50" East 481.30 feet to a point; thence North 67°
09' 58" East 187.86 feet to a point; thence South 09° 32'
26" East 311.53 feet to a point; thence North 60° 27' 34"
East 277.00 feet to a point in the centerline of Bullcreek
Road; thence with said centerline South 09° 32' 26" East
265.90 feet to a point; thence leaving said centerline on a
line bearing South 70° 01' 24" West 433.42 feet to a point
in the line dividing said Grants 37 and 38; thence with said
dividing line South 42° 15' 28" East 800 feet + to the
southerly corner of said Grant No. 38; thence South 08° 31'
28" East 180 feet + to a point at the low water mark of the
Ohio River; thence downstream with said low water mark South
76° 48' 32" West 4029 feet + to a point; thence continuing
with said low water mark South 83° 25' 02" West 1627 feet +
to a point; thence leaving said low water mark on a line
bearing North 12° 46' 19" East 581.4 feet to a point; thence
North 61° 20' 27" East 409.63 feet to a point; thence North
64° 03' 30" East 1653.80 feet to a point; thence North 58°
58' 20" East 304.68 feet to a point; thence North 64° 53'
27" East 258.36 feet to a point; thence North 61° 03' 30"
East 370.71 feet to a point; thence North 55° 15' 25" East
11.8130 feet to a point; thence North 43° 01' 27" East
405.44 feet to a point, the true point of beginning, con-
taining 164.7907 acres more or less.

Being part of Grants 37 and 38 of the Illinois Grant
Clark County, Indiana, more particularly described as fol-
lows:

Beginning at a stone set at the westerly corner of said
Grant No. 38; thence with the line dividing said Grants 37
and 38, South 42° 15' 28" East 3200.10 feet more or less to
a redbud tree on a large rock on top of a bluff, said tree
being the TRUE POINT OF BEGINNING; thence continuing with
said dividing line South 42° 15' 28" East 391.36 feet to a
point; thence leaving said dividing line on a line bearing
North 47° 30' 31" East 434.20 feet to a point; thence South
26° 25' 50" East 481.30 feet to a point; thence North 67°
09' 58" East 187.86 feet to a point; thence South 09° 32'
26" East 311.53 feet to a point; thence North 60° 27' 34"
East 277.00 feet to a point in the centerline of Bullcreek
Road; thence with said centerline South 09° 32' 26" East
265.90 feet to a point; thence leaving said centerline on a
line bearing South 70° 01' 24" West 433.42 feet to a point
in the line dividing said Grants 37 and 38; thence with said
dividing line South 42° 15' 28" East 800 feet + to the
southerly corner of said Grant No. 38; thence South 08° 31'
28" East 180 feet + to a point at the low water mark of the
Ohio River; thence downstream with said low water mark South
76° 48' 32" West 4029 feet + to a point; thence continuing
with said low water mark South 83° 25' 02" West 1627 feet +
to a point; thence leaving said low water mark on a line
bearing North 12° 46' 19" East 581.4 feet to a point; thence
North 61° 20' 27" East 409.63 feet to a point; thence North
64° 03' 30" East 1653.80 feet to a point; thence North 58°
58' 20" East 304.68 feet to a point; thence North 64° 53'
27" East 258.36 feet to a point; thence North 61° 03' 30"
East 370.71 feet to a point; thence North 55° 15' 25" East
11.8130 feet to a point; thence North 43° 01' 27" East
405.44 feet to a point, the true point of beginning, con-
taining 164.7907 acres more or less.

INTERESTED PARTIES

NOTICE SENT TO THE FOLLOWING:

Bill Fisher
2224 Chestnut Street
Jeffersonville, IN 47130

Paul M. & Opal J. Isom
833 Pike Street
Charlestown, IN 47111

Harold W. & Marion Roark
4511 Bull Creek Road
Charlestown, IN 47111

Homer Brison
4605 Bull Creek Road
Charlestown, IN 47111

Robert & Celilia Schindler
4619 Bull Creek Road
Charlestown, IN 47111

On this 15th day of November, 1998, I, Timothy Tilton, President, Clark County Board of Zoning Appeals, do hereby certify that the following is a true and correct copy of the minutes of the meeting of the Clark County Board of Zoning Appeals, held on the 15th day of November, 1998, at 6:00 p.m. in the Conference Room, 3rd Floor, County Building, Jeffersonville, Indiana.

A copy of the minutes of the meeting of the Clark County Board of Zoning Appeals, held on the 15th day of November, 1998, at 6:00 p.m. in the Conference Room, 3rd Floor, County Building, Jeffersonville, Indiana, is hereby certified to be a true and correct copy of the minutes of the meeting of the Clark County Board of Zoning Appeals, held on the 15th day of November, 1998, at 6:00 p.m. in the Conference Room, 3rd Floor, County Building, Jeffersonville, Indiana.

Timothy Tilton
President, Clark County Board of Zoning Appeals

STATE OF INDIANA,
COUNTY OF CLARK—SS

Liz Baumgardner on oath says that she is book-keeper of the News & Journal and in the employ of the publisher of

The Evening News, a daily

newspaper of general circulation printed and published in the City of Jeffersonville, Clark County, State of Indiana, and further says that the annexed advertisement was published in said paper for one time to-wit: In issue of said Evening News dated ... Nov. 2, 1998

Liz Baumgardner

State of Indiana

County of Clark

Subscribed and sworn to before me this 7th day of November, 1998

Jan. Wilson

Notary Public, Clark County, Indiana

My commission expires October 11, 2006

